Tho: Lastin 8 1720

C ✝

INSTITVTIONS,

or pryncypall groundes of the lawes and Statutes of Englande, newelye and verye truelye corrected and amended, with many newe and goodly additions, very profytable for all sortes of people to knowe, latelye augmented and imprinted.

*

An. D. 1551.

4+

The prologe of the authour to the Reader.

DEMOSTHENES, the renomed Orature declyneth lawe in this wyse. The lawe (sayth he) is the thynge that all men oughte to obey for many thynges, but in specyalye bycause lawe is the inuencyon, and also the gyfte of God, the Decrees of prudent menne, the chastysement of wylful and vnwytful offences, and fynally the common surety of a Realme, whereby it becommeth all men to lyue, whiche be conuersaunte in the same. Chrysippus also an excellent Philosopher, thus begynneth his boke of lawes.

¶ The lawe is kynge of al, aswel in diuine as humayne affayres, the president and comptroler of thynges honest, and dyshonest, the Iudge, Captayne, and ruler, of the iust and vniust, and it is of ciuile creatures, aswell the commaunder, what they oughte to do, as the forbydder, what they oughte not to doo. These auntyke sayenges of wyse men, assuredlye ought muche to inflame vs to the knowlege of those thinges, without whiche we maybe estemed no men, but as brute and sauage beastes. Lette vs not commytte, that it be sayde of vs Englysshemen, as it was ones sayde of the men of Athens, that is, that we make verye goodlye and profytable lawes, but we vse them not. Certainly there can be no greater reproche to a common weale then

this. One lesson I wolde we learned of the auncyent lawyer Romaine, named Celsus, and that is this. The knowledge of lawes is not to bere awaye the wordes, but the pythe and power of them. This he wrote, bycause there be many, which when good and holsome lawes be made, seke not to see them executed, and obserued, but rather howe to defraude them, and to haue them vnexecuted, whiche kynde of people after the sentence of most auncyente lawemakers, be no lesse worthy of reprehensyon, then they whiche do expressely agaynst the lawe. Nowe, they doo (say they) agaynst the lawe whiche do the thing that the lawe forbiddeth. And they defraude a lawe or statute, whiche the wordes of the lawe saued, do circumuent the meanynge and sentence of it. Let vs then so reade the lawes that we may beare awaye the sentence and mynde of them, and so fulfyll, and obserue the lawes, that it may appere that they were not made in vayne.

Thus doynge, we shal please God, we shalbe obedyent subiectes to our Prince, and fynally we shal seke our owne weale and sauety.

The lawe is the dyrection, and ministracyon of Justyce. And Justyce is (as the Emperour Justinian sayth in his Institucyons.) a constant and permanente wyll, to rendre vnto euery persone his right and dutye.

☞ The learnynge or prudence of lawe, is a knowledge of dyuyne and humayne thynges, a science and perfyt notyce of equitie, and iniquitye, of ryght and wronge.

¶ Nowe for as muche as a greate porcyon of the prudence of scyence of the lawes of this realme of Englande, consysthe in the perfytte knowlege of estates, which men haue in landes and tenementes: we shal syfft as compendiously, and as symply and plainly as we can, treate som what of estates.

¶ Diuision of estates.

We shal therfore vnderstande that who soeuer hathe any state in landes or tenementes, eyther he hathe in the same onelye a chatell, or a holde, or inheritaunce. If he hath an estate but for terme of certayne yeres, or at his landlordes wyll, so it is called a chatell, yf for terme of his lyfe, or of an other mans lyfe, it is called a free holde. And yf he hath it to hym and to his heyres in fee symple, or in tayle: then he hath a state of inheritaunce.

¶ Tenaunt for terme of yeres.

TEnaunt for terme of yeres, is he, to whome landes or tenementes be lette for terme of certayne yeres, as is agreed betweene the landlorde and the tenaunt. And when the person to whom suche lease is made doth entre by force of the said lease, and is in possession of the same: then he is called tenaunte for terme of yeres.

Rente reserued.

¶ And here ye shal note, that yf the lessour, that made the lease hath reserued vnto hym a yerely rente vpon the sayde lease (as it is accustomably vsed to be done) yf the rente be behynde vnpayd, it shalbe in his election, eyther to entre and distrayne for the rent, or to brynge an accyon of Dett agaynste hym at the lawe, for the arrerages of the same. But in this case it is requisite, that the lessoure were seased of the landes or tenementes at the tyme of the makynge of the lease, for otherwyse it shalbe a good plee in the action of Dette, for the tenaunt to saye, that the lessour had nothynge in the lande and tenemente at the tyme of the lease made: excepte the lease were made by dede endented, for then the plee shal not lye in the tenauntes mouth to plede.

Action of Dette.

A good plee.

Iquery of fealon nede not in lease for terme of yeres.

☞ And it is to be knowen, that in lease for terme of yeres, whether it be by dede or without dede, there nede no iquery of fealon to be made to the lease, but he may entre when he wyll by vertue of his lease, without any further ceremony of the lawe.

¶ Also if a man letteth landes for terme of yeres thoughe the lessoure chaunceth to dye before the lease doth entre, yet he may entre well ynoughe. Otherwyse it is where iquery of fealon is to be made, as in free holdes and inherytaunce.

Also

¶ Also yf the tenaunt foryeres doth wast, the landlorde may bryng an action of wast agaynst hym, and shall recouer the place wasted, and his treble damages. Waste.

¶ Also yf a lease for yeres be made of .ii. seuerall thynges, and after the one is recouered, the lesse shall holde the other, and the rente or ferme shalbe apportyoned. M.12.H.8.

¶ Also yf the tenaunt for yeres graũteth a greater estate in the lande, then he hathe hym selfe, whereby he conueyethe the fee symple to hym selfe, he shall forfayte his lease or terme. Forfayture.

¶ Tenaunt at wyl.

TEnaunt at wyll is he, to whom landes or tenementes be lessed, to haue and holde the same at the wyll of the lessour. And in this case the lessourt may put out his tenaunte at what tyme hym lysteth. But yet neuertheless, yf the tenaunte haue sowed the grounde with corne, in this case yf the lessour wyl entre and put oute his tenaunte before Harueste, the lawe wyll gyue hym free cõmynge and goynge to reape and carye his corne awaye, without any punyshement or dammages to be sustayned for his so doynge, bycause he knewe not at what tyme the lessour wolde entre. But otherwyse it is of the tenaunt for certayne yeres, for yf he soweth the grounde, and the terme of the lease be come out and expyred before the corne be rype in this case the lessour or he in reuersyon may entre and take the corne, bycause it was the folye of the tenaunt to sowe the grounde, knowynge the ende of his terme.

¶ In lyke wyse, tenaunt at wyl shal haue free

commynge and goynge, after the tyme of the lessoures entree, to carye awaye his householde stuffe and goodes, for a reasonable space.

¶ Ye shal also vnderstande that he that maketh a lease at wyll, may reserue an annuell or perely rente, in whiche case yf the rente be behynde, he may entre very well, and dystreyne the goodes, and cattelles of the tenant, or at his election, he may bryngе an action of Dette agaynst hym.

Dystresse or elles action of Dette.

¶ Also it is to be knowen, that tenant at wyll of a mese, the tenaunt is not bound by the ordre of the lawe, to sustreyne and repayre the houses that be decayed and ruynouse, as is the tenaunt for yeres, and therefore none action of Waste lyeth agaynst hym. Yet yf he be wylful Waste: as yf he plucketh downe the houses, or cutteth downe the trees: it hath ben thoughte by the sages of the lawe, that the lessoure may bryngе an action of Trespas agaynst hym, and shal recouer his losses therby sustreyned.

Waste.

Trespas

¶ And yf such a tenaunt dye, and his heyre entree in that case, the lessoure may haue an action of Trespas agaynst the heyre.

¶ Tenaunt by copy of court roule.

There is an other kynde of tenaunt at wyl, whiche is called tenaunte by copye of the Courte roules. And this is when a man is leased of a maner, within whiche it hath benne vsed tyme out of mynde, that the tenantes within the boundes and precincte of the sayde maner, haue holden landes and tenementes to them and to they^r heyres, in fee symple, fee tayle, or for terme of lyfe, at the wyl of the Lorde, according to the custome of the maner. And suche a

tenaunt

tenaunt can not alyene or sell his lande by his dede, for yf he do, the lande or tenemente that is so aliened and solde, is forfaite into the lordes handes: but if he wyll alyene his copy hold land to an other, he must accordynge to the custome, come into the lordes courte, and there surrendre it into the Lordes hande, to the behouke and vse of hym that shall haue the state. The fourme of whiche surrendre is commenly vsed to be this. Surrendre.

☞ Ad hanc curiam venit A. de B. et surdum reddidit in eadem curia vnum messuagium, &c. in manus domini, ad vsum C. de D. et heredum suorum vel heredum de corpore. &c. Et super hoc venit predictus C. de D. et cepit de domino in eadem curia messuagium predictum, habendum et tenendum sibi. &c. ad voluntatem domini secundum consuetudinem manerii, faciendum inde redditus, seruitia, et consuetudines inde prius debitas et consuetas. &c. Et dat domino pro fine. &c. Et fecit domino fidelitatem. The forme of surrendre

☞ These as I sayde, be called tenauntes by copy of Court roule, bycause they haue none other euydence to shewe concerninge theyr landes, saue onelye the copyes of the roules, of theyr Lordes courte.

¶ Neyther can these tenauntes sue, or be sued for suche landes, in the kinges courte, by writte, or otherwyse, but yf they wyll in any wyse implede or sue others, for suche copy landes, they must do it by way of playnt in the lordes court, after this sorte.

¶ A. de B. queritur versus C. de D. de placito terre, videlicet de vno messuagio. xl. acris terre. iiii. acris prati. &c. cum pertinentiis. Et facit protestationem sequi, querelam istam in natura The fourme of the plait.

breuis dñi regis assise mortis antecessoris ad comunē legē vel. ꝛc. plegii de prosequēdo. F. G. ꝛc

¶ Nowe althoughe some suche tenaūtes haue an inheritaunce accordynge to the custome of the maner, yet in very dede they are but tenauntes at the wyl of the lorde. For as some mē thynke, yf the lorde wyll expel them and put them forth, they haue no remedye at all, but to sue vnto theyr lorde by waye of peticion, desyrynge hym to be good and gracyous lorde vnto them. For yf they myghte haue anye remedye by the lawe then shulde they not be called (saye they) tenaūtes at the wyll of the Lorde, after the custome of the maner. But other men of no lesse learnynge and prudence haue bene of contrarye sentence: as lorde Bryā chiefe Justyce, in ꝑ tyme of kyng Edwarde the. iiii. whose opynyon was always that yf suche tenaunte by the custome (payenge his scruyces) be elected and put forthe by his lorde without cause reasonable, he maye very wel bryng and meyntayne an actyō of Trespas agaynst his lorde at the common lawe: as appereth, termino Hilarii anno. xxi. E. iiii. Also lord Danby chyefe Justyce in lykewyse, was of the same iudgemente: as appeareth termino Mi. an. vii. E. iiii. where he sayeth, that the tenaunt by the custome is as well inherytable to haue his lande after the custome, as is he that hathe a free holde at the common lawe, but the determynacyon of this questyon I remyt to my great maysters, whiche can solue the knottes and enigmaes of the lawe.

Action of Trespas.

¶ For asmuche as yet styl of this matter, Causidici certant et ad huc sub iudicelis est.

¶ Also ye shall vnderstande, that the vsage of

some

some manours is when the tenaunt wyll surren
der his lande to the vse of an other, that he shal
take a wande or rodde in his hande, and delyuer
it to the stewarde of the courte, and the stewarde
shall delyuer the same wande in name of seysyn
to hym that shall take the land: and such a te
naunt is called, tenaunt by the verge. Dyuerse
other customes there be, of surrendryng of copy
holde landes, whiche here for tedyousnesse I
wyll omytte. And for asmuche as tenauntes by
custome of the Manoure, haue by the course of
the common lawe, no free holde: therfore they be
called tenauntes of base tenure.

Base te
nure.

¶ Also yf suche a tenaunt letteth to ferme his
copye holde lande, for lenger tyme then a twelue
moneth and a daye without the Lordes ipcence,
it is a forfayture of his lande to the Lorde.

¶ And knowe ye, that of this tenaunt fell any
tymber, that groweth vpon the lande, but one-
ly for the reparacyon of the same, this is waste,
and a forfayture of his copy holde.

¶ Hytherto haue I treated of the fyrste mem-
bre of our diuision, that is to wyt, of chateles,
for as I sayde, all leases for terme of yeres, and
at wyl, be accompted in the law but as chatels,
and be comprised vnder that name, saue that
they be called chateles reals, where as
Kine, Oxen, Horses, money, plate,
corne, and suche lyke be cal-
led chatel personales.

Chatelle
reall and
personel.

Nowe we wyll
procede to
the explanacyon of the seconde
numbre, that is to say,
of free holdes.

Free

FRee holdes or franke tenementes, a manne may haue in sundry wises, for either he is seased for terme of his owne lyfe, or for terme of an other mans lyfe. If he be seased for terme of his owne lyfe, either he hath gotten suche estate by way of purchase, or elles the lawe hath intytuled hym therunto. I call it by purchase, whether he commeth vnto it by his owne bargayninge and procurement, or by the gyfte of his freende, and I call it by the operatyon and intytelynge of the lawe, when a man marieth a woman that is an inheritres, and hath yssue by her, and she dyeth, nowe shall he haue the landes during his lyfe, by the course of the lawe, and shalbe called tenant by the curtesy of England.

Tenaunt by the curtelye.

¶ In lykewyse, yf a man be seased in fee symple: or fee tayle, of landes, and taketh a wyfe, and he dyethe, the lawe giueth vnto the wyfe the thyrde parte of her husbandes landes, for terme of her lyfe, and she shalbe called tenaunte in dower.

Tenaunt in dower.

¶ Tenaunt for terme of lyfe.

TEnaunte for terme of lyfe, is he that holdeth landes or tenementes for terme of his owne lyfe, or for terme of an others lyfe. Nowe he it the most frequent, and common maner of speakynge, is to call hym that hath estate for terme of his owne lyfe, tenaunt for lyfe, and hym that hath estate for terme of an others lyfe, tenaunt pour terme dauter vie, that is to saye, tenaunt for terme of an others lyfe.

☞ Ye shall note, that lyke as he that maketh the lease, is called the lessoure, and he to whome the

the lease is made, is called the lessee, so he that maketh a lessement, is called the lessoure, and he to whom the lessement is made the lessee.

¶ Also yf tenaunt for terme of lyfe, or tenaunt for terme of an other mans lyfe, do Waste, the lessoure or he in the reuersion, shall meyntayne verey well an action of Waste agaynst hym, and shall by the same recouer treble damages. Waste.

¶ Fynally, ye shal vnderstande, that by an acte of Parlyament, made in the twentye and seuen yere of our soueraygne Lorde kynge Henrye the eyghe, it was enacted that no free holde, nor estate of inheritaunce, shall passe nor take effecte by reason of any bargayne and sale, except that same be made by wrytynge indented, sealed, and enrolled, in one of the kynges maiesties courtes at Westmynster, or els within the same county where the lande dothe lye, before the custos Rotulorum, and .ii. Justices of peace, and the clerke of the peace, of the same county, or two of them at least, of whych the sayd clerke shalbe one, and that suche enrollement be made within syxe monethes after the date of suche wrytynge. And for the enrollemente of euerye suche wrytynge, where the lande comprysed therein is not aboue the yerely value of foure shyllynges, they shall take two shyllynges, that is twelue pence to the Justyces, and .xii. pence to the clarke. And if the lande be aboue the yerely value of .x. s. then they shall take, v. s. that is .ii. s. and vi. d. to the Justyces, and .ii. s. and .vi. d. to the clarke, whiche shall enrolle and ingrosse sufficyently in parchemente suche dedes and wrytynges, and at euery yeres ende he shall delyuer the same to the Custos totulorum of the same counte, to remayne in Jn. 27. Hen. 8.

in his custody amonge other recordes of ye same countye, so that the partyes resortynge thyther may se them. Prouyded, that this extende not to any tenementes or heredytamentes lyenge win any cytie or towne corporate, wherin ye Maires Recorders or other offycers haue auctthoryty, or haue lawfully vsed to enrolle any euydences or wrytynges within theyr precyncte.

¶ Tenaunt by the curtesye.

TEnaunte by the curtesye of Englande, is he that hath maryed a wyfe inheryted, and hath had yssue by her, and she is deade, in this case the lawe of Englande permytteth and suffereth the husbande of suche wyfe, to receyue and kepe styll all his wyues lande, that she had, eyther in fee symple, or fee tayle, so longe as he lyueth. And this is by the curtesy and vrbanitie of Englande, for this thynge is vsed in none other countrey nor regyon.

¶ But in this case it is required that the childe be vytall, that is to saye, be borne and broughte forth into this world alyue, and therfore the cōmon sayeng is, and hath ben, that onles ye childe be harde crye, the father shall not be tenaunt by the curtesye for the onely profe and argumente of lyfe in an infant borne, is ye vagyte & cryeng.

¶ Ye shal furthermore vnderstande, that onlesse the husbande be in actuall and reall possessyon of his wyues landes, and seased of them in her ryght, he shall not be tenaunte by the curtesye after her death. And therfore yf landes dyscende to a mannes wyfe, so that she is tenaunte in the lawe, and to euery mans action, yet yf the husbande haue not made an actuall entre duryng

couerture and matrymony betwene the, he shall not be tenaunt by curtesye, for it shall be reputed and iudged his soly and neclygence that he wolde not entre in her lyfe tyme.

¶ Otherwyse it is of aduoulons, rentes, comons and suche other thinges, which forthwith when they discende, be in a manne or woman without any entre or further ceremony of lawe.

☞ Note that yf tenaunte by the curtesye of Englande, wyl suffre or make any waste in the landes or tenementes that he so holdethe, he is punyshable therefore, by action of wast brought by hym in the reuersyon.

¶ Also it is to be knowen, that of thynges that Waste.
ben in suspence, a man shal not be tenaunt by ỹ curtesye, and therfore yf a man be tenaunt in fee symple of certayne lande, and dothe entermary with a woman that is the seygnoresse or ladye of the same, and hath yssue by her, and she dyeth, yet shall he not be tenaunte by the curtesy of the lordshyppe or seygnory, bycause hym selfe is tenaunt of the lande, and therefore the lordshyppe is suspended for the tyme, for a man can not be both lorde and tenaunte of one thynge, but if he had not bene tenaūte of the lande, he shulde haue had the lordeshyp after the death of his wyfe by the curtesye of Englande very well.

¶ Also note that of a ryght onely a man shall Note.
not be tenaunt by the curtesye, as if a woman sole seased in fee of lande or tenementes, be dysseysed and after take a husbande, and they haue yssue, and she dye before any reentre made, the husbande shall not be tenaunte by curtesye.

¶ Note further that of a reuersyon a man shall Note.
not be tenaunt by the curtesye, as if a woman

sole

sole seysed of lande in fee, make a lease to hy: for terme of lyfe, after taketh a husbande, and they hath yssue, and she dyeth, leuynge the lease for terme of lyfe, the husbande shall not be tenaunt by the curtelye.

¶ Of tenaunt in dower.

TEnaunte in dower, is she that hath benne maryed to an husbande, that was durynge the matrymony, betwene them, seased of landes or tenementes, in fee symple, or fee tayle, which is nowe dead, and she seysed of the thirde parte of her husbandes sayde landes, for terme of her lyfe. For by the common lawe of the land yf the husband be at any tyme during the couerture seased lawfully, whether it be by purchase or by dyscente, eyther in fee, or in tayle, and dye, his wyfe ought to be endowed by the course of the common law, of the thyrde sote. And in some places by an auncyent custome, she shalbe endowed of the moyty, yea and thoughe the husband were neuer seased actuallye, durynge the couerture, yet yf the landes be cast vppon hym by the lawe, so that the lawe calleth hym tenaunt to euery mans action, it sufficyeth the woman to demaunde her dower, for it were vnreasonable, that the negligence and slackenes of eneytinge of the husbande, shulde hurte the wyues tytle.

Dower of the common lawe.

Dower by custõe

¶ Otherwise it is, as is sayd before, of tenaunt by the curtelye, for yf landes dyscended to a woman couert, and the husbande for slouthfulnesse or negligence, doth not entre in his wyues tytle, he shall not be tenaunt by the curtesy, for by all lawes, the wyfe owyth obedience and subiection

Tenaunt by the curtelye.

to

to her husbande, and therfore she can not compell hym to entre, but when landes dyscended to the wyfe, the husbande onely hath power to entre at his pleasure.

¶ And ye shal understande, that onles the wife be passed the age of .ix. yeres at the tyme of her husbandes death, she shal not be endowed by the common lawe.

¶ But it is to be knowen, that a woman may by dyuerse wayes stoppe and preiude her selfe of her dower: as yf she commyt any tryme, for whiche she is attaynted of treason, murder, or felony, she gette in this case no dower, notwithstandynge she hath obteyned her pardon. A woma shal haue no dower

¶ Also yf after the death of her husbande, she taketh a lease for terme of lyfe, of the same landes, whereof she is indowable, she loseth her dower of the same. Moreouer yf she departeth frō her husbande, and lyueth in aduoutry with another man, and is not reconcyled agayne to her husbande, without coercion of the ecclesiastical power, she loseth her dower after her husbandes death. Shee shalbe also barred of her dower if she wyl withholde from the heyre, the chatrers, and euydence, concernynge that lande whereof she asketh dower. But none other saue the heyre, can withholde her dower for this cause.

¶ It ought not to be vnknowen also of what thynge she may demaunde dower, and of what thynges not. Of landes, messuages, aduousons, rente charges, rente seruyces, or seygnoryes, ingrose or otherwyse, of vyllaynes, of commons certayne, of estouers certayne, of myles, and of fyces, or of the profyte of them, she is dowable. But of commons, and estouers sans nombre, al-

so of annuities, of homages, of thinges of pleasure, as of seruice, of paiment of roses, and semblable, she shal not be endowed.

¶ There be yet two other kyndes of dower, the one is called dowment (ex assensu patris) that is to saye, by the assent of the father, and the other is called dowmēt (de la plus veale partie.) That is to say, of the kayrest parte.

Dowmente ex assensu patris.

¶ Dowement exassensu patris, is when the father is seased of landes in fee symple, and his son whiche is heyre apparaunte, endoweth his wyfe, at the Churche doze: when he is espoused of parcell of his fathers landes, with the assent of his father in wrytynge, testyfyenge the same assent, yf in this case her husbande dye, she may forth with entre into the lande, so assygned vnto her without further appoyntynge of prores of lawe, although the father of her sayde husbande be yet alyue, and in actuall possessyon of the lande. But yf she thus do, and take her to this endowment at the churche doze: she can not haue her dower also by the common lawe, of the thyrde parte of all her husbandes landes, or any parcell of them, howe be it yf she wyl refuse this assygnement made vnto her at the churche doze, and demaunde dower at the common lawe, she may do so very well.

Dowmēt ad hostiū ecclesie.

¶ A man may also endowe his wyfe, at the tyme of the espousayles, of his owne landes, the whiche he hath in his owne possession, and that dower is called dower, ad hostium ecclesie, that is to saye, at the churche doze.

Dowmēt de la plus veale.

¶ Dowment de la pluis veale, that is to saye, dowment of the kayrest parte, shalbe in this case when a man is seased of landes, whiche he holdeth

of an other ma by knightes ſeruyce, and of other landes which be of ſocage tenure, and hath yſſue whiche is within the age of. xiiii. yeres and dye, and the lorde of whom the lande is holden by knyghtes ſeruyce, entreth into the lande holden of him, and the mother of the childe entreth into the ſocage tenure, as gardeyne in ſocage, yf in this caſe the woman wyl bryng a writ of dower agaynſt the lorde whiche is a gardeyne in chyualrye, he may plede the ſpecyall matter and ſhewe, howe ſhe as gardeyne in ſocage, hath ſo muche lande, and therupon pray the court that ſhe may be ſuffred to endowe her ſelfe of ſo much lande, beyng in her owne cuſtody, as amounteth to the thyrde parte of the hole landes.

¶ And then the iudgement ſhalbe, that the gardeyne in chyualry ſhall reteyne the lande holden of hym quite from the woman durynge the nonage of the warde. After whiche iudgement and ſentence gyuen ſhe may go, and in preſence of her neygbbours, and endowe her ſelfe of the beſte parte of that whiche is in her cuſtodye, amountynge to the thyrde parte of the hole, and then is ſhe called tenaunt in dower de la plus beale.

¶ Fynally ye ſhall vnderſtande, that by a ſtatute made in the. xxvii. yeare of our moſt dreade ſouerayngne lorde kynge Henry the eyghte, it is enacted, that where dyuerſe perſones haue eſtates made to them and to theyr wyues, and to the heyres of the huſbande, or to the huſbande and wyfe, and the heyres of theyr two bodyes begotten, or the heyres of one of theyr bodyes, or for terme of bothe, or one of theyr lyues, or to any other perſounes and theyr heyres, to the vſe of the huſbande and wyfe, or to the wyfe alone, for

Anno. 27. Henri. 8. Cap. 10.

her ioynture: in euery ſuch caſe the woman ſhal not be ſuffered to demaunde any dowȝye of the reſydue of her huſbandes landes, by whom ſhe hath her ioynter, agaynſte any tenaunt of the lande. But in caſe ſhe hath no ſuch ioynter, then may ſhe demaunde her dowȝy, after the courſe of the common lawe. ¶ Prouyded neuertheleſſe, that yf ſuch woman be lawfully expulſed from their ioynter, or any parte thereof, without fraude or couyn: then ſhall they be endowed of the reſydue of theyr huſbandes landes, for as muche as the landes ſhal amount vnto, out of which they were ſo expulſed and put forth.

¶ Prouided alſo, that yf landes or tenementes be aſſured to any womanne, after maryage, for terme of lyfe or otherwyſe in ioynture (excepte it be by acte of parlyament) and the wyfe ouerlyue her huſbande, in whoſe tyme the ioynture was made: in this caſe the wyfe may refuſe the landes ſo appoynted vnto her in ioynture, and haue her dower at the common lawe, of ſuche landes as her huſbande was ſeaſed of, at any tyme durynge the couerture

¶ Alſo yf the huſbande commytteth treaſone, murdre, or felony, for whiche he is atteynted, the wyfe ſhall not haue her dower.

¶ And note that yf the huſbande entre into religyon, and is profeſſed, the heyre ſhall entre into the lande, but the wyfe getteth no dower, tyl the huſbande dyeth. M. 32. E. 2.

¶ And likewiſe, if a mā ſeaſed of landes taketh a wyfe that is an aliene borne and dieth, ſhe ſhal not be endowed, excepte ſhe be made denizin by act of parliament. E. 3. H. 6. And note that whē the wyfe bryngē a writ of dower, and recouer

her

her right, she shal recouer no damages, but where her husband died seased of the landes recouered. Damages.

¶ A deuision of inheritaunce.

HYtherto I haue spoken of free holdes, nowe it remayneth, to treate of inherytaunces, not that inherytaunces, be no free holdes, for they be free holdes also, but of the other estates of whith I haue hertofore treated be onely free holdes, and of no hygher nature, where as a state of inherytaunce althoughe it be a free holde in dede, yet it is not to be called by name, syth it is after more excellent and greater estate. But ye shall vnderstande, that of inherytaunces some be of more amplytude and excellency then other some be, as that inheritaunce whiche is pure symple, and without lymitacion of what heyres, which kynde of inherytaunce is called free symple. But when I make a limitacyon of what heyres, then it is called fee tayle, of whiche also be two sortes, as hereafter more at large shalbe declared. Nowe therfore the nature of fee symple is set forth with our accustomed compendyousnesse.

¶ Of fee symple.

FEe symple is (as I sayde) the most ample and large inherytaunce that can be in this Realme, deuised or excogytate, as the which a man hath to him and to his heyres simple without any further lymytacyon, for whether they be of his owne bodye begotten or not, so that they be the nexte of his kynne, and within the degres it suffyseth. Fee symple.

¶ So then, tenant in fee simple is he that hath

landes or tenementes (whether it be by purchase or by dyscent) to hym and to his heyres or assygnes for euer. For yf a man wyll purchase landes in fee symple, he must nedes haue these wordes, (his heires) in his purchase, for these be the only wordes that make the state of inheryptaunce. Therefore yf landes be gyuen to a man for euer and no mencyon be made of his heyres: he hath an estate but for terme of his lyfe, because these wordes (his heyres) do lacke.

Deuyse. ¶ Yet neuertheles, yf a man by his testament doth deuyse landes to an other in suche place or case where the custome or lawe wyll serue so to do, thoughe he maketh no mention of heires, but sayeth that he bequetheth to such a person suche landes, to haue and to holde, to hym and to his assignes for euermore: there a state of inheritance doth passe, for in testamentes that wyll and intent of the testatoure, is to be pondred, and not the formall and prescrypte wordes of the lawe.

¶ Also these termes in the lawe, franke maryage, and franke almoyne, that is to say, free maryage, and free almoyne, do include in theym wordes of inheryptaunce.

¶ And therfore if I giue landes to a man with my doughter in franke maryage, without further addition or mencion of heyres, this is an estate of inheritaunce, as he that hereafter declare more plentously. In lyke wise it is of landes gyuen to an house ecclesiastical, in pure and franke almes. Moreouer yf landes be gyuen to a man and to his bloude, or vnto hym and to his seed, he hath in bothe cases, a state of inheryptaunce, for in the last he hath a fee tayle, and in the other a fee symple. For this worde seede, and bloude

Donum temini et sanguini suo quid sit.

and

and such like do imply wordes of inheritaunce.

¶ Also yf landes be gyuen to a man and to his heyres males, or females, he hath by this gyfte a fee symple, because it is not expressed of what body the yssue shal come. ¶. 9. H. 6.

¶ But now it is to be sene who be said a mans heyres in the lawe. Ye shall therfore knowe that my brother or syster, by the halfe bloude, that is to wyt, by the fathers syde, and not by the mothers, or contrary wyse by the mothers, and not by the fathers, shal neuer be mine heyre nor none that come of them. The half bloude.

¶ Neyther my bastarde can be myne heyre, nor myne owne natural father, nor mother, nor grandfather, nor grandmother: can be myne heyre. For it is a pryncyple and grounde of the lawe, that inheritaunce may lynally dyscende. But ascend it may not. And therefore yf I haue landes in fee symple, and dye without yssue of my body, my father can not be myne heyre, but my fathers brother or syster shall, & then yf my vncle, or aunt dye seased without yssue, my father shall haue the landes, as heyre to my vncle, and not as heire to me, for that can not be. But it may go frome me, to myne vncle, or aunte well ynoughe, for that is not called a lynyall assencyon, but a collateral dyscent. A bastard shall be no heyre. A ground of the lawe.

¶ And ye shal vnderstande that lynial discente is when the dyscent is conueyed in the same lyne of the hoole bloude, as graunfather, father and son, and so downe. And collaterall dyscente is out an other, brauche from aboue of the hoole bloude, as the grandfathers brother, or fathers brother, and so dyscendyng. Lynyall and collaterall dyscent.

¶ And ye shall note, that by the common lawe

of this realme, the eldest son shall haue the hoole inheryteaunce, and after hym, yf he haue no yssue the seconde son, and so forth. And yf I haue no sonnes but doughters, then shall all the doughters togyther inheryte, whiche be called coparteners, but yf I haue no yssue at all, neyther sonne doughters, then shall my eldest brother in heritage succede me, but and yf I haue no brother, then my systers yf I haue any, yf not, my vncle by my fathers syde, yf the landes be myne owne purchase. And to be shorte, yf there be none in syde, of my fathers side, it shal go to my mothers syde, and yf there can be founde no heyre, neyther by fathers syde, nor yet by mothers, then shall it reuerte and eschete, as they call it, to the Lorde of whome it was holden, for euery lande muste nedes be holden of some Lorde, as shalbe hereafter shewed. But yf landes descende vnto me by my mothers syde, then yf I fayle of yssue, the landes shal descende onely to my heyre, of my mothers syde, and neuer to my heyre of my fathers syde: as on the contrary syde, yf I haue landes or any hereditamentes, by dyscente from my father or his bloude, they shall neuer dyscende to my heyres, by my mothers syde.

Coparteners.

Eschete.

Dyuersyte.

¶ And thus ye see a great dyfference in this behalfe, betwene purchase landes, & landes whiche dyscende from my auncestoure.

¶ If there be thre sons, and the myddell sonne purchase landes, and dye without yssue, the eldest shall haue the landes, and not the yongest.

A groude of the lawe.

¶ Also it is a principle in our lawe, that none can be myne heire of landes that I holde in fee symple, onles he be mine heire by the hole bloude, that is to saye, both by father and mother, for yf

a man

a man hath yssue, two or thre sonnes by sundry wyues, and the eldest purchaseth landes in fee, and dyeth without yssue, his halfe brethren, I meane those that be not his brethren both by the fathers syde, and mothers syde, shal not haue the lande, but it shall go to his vncle.

¶ Lykewyse yf a man hath by his fyrst wyfe, a son and a doughter, and by his seconde wyfe, an other son, and the son by the fyrst wyfe purchaseth landes in fee symple, and dyeth without yssue: the syster germain, that is to saye, both by fathers syde and mothers, shall haue the landes by discente, as heyre to her brother, and not the yonger brother, for almuche as the yonger brother can not in this case be heire to his elder brother, because he is no brother germaine vnto him Otherwyse it is of landes, or other heredytamentes entayled, as shalbe hereafter specyfyed.

¶ Also yf a man be seysed of landes in fee symple, and hath yssue, a son and a doughter by one wyfe, and after the death of his fyrst wyfe, a son by an other wyfe, and dyeth, and the eldest son entreth into the landes, and after he dieth without lawful yssue of his body, the doughter shal haue the landes, and not the yongest son, and yet the yongest son is heyre to his father, but he is not so vnto his brother. But yf in this case the eldest son had not entred, after the death of his father, but hadde dyed before any entre made by hym, then shal not the syster germayne enter, but the yonger brother is heyre to his father, because the eldest brother was neuer in actual possession whiche is requisyte to the person that claymeth to be heyre collaterally.

¶ But to the lineal heyres, it suffereth that the

aunceſtour ſhulde haue ben heire if he had liued. I meane as thus. A man is ſeaſed of landes and hath yſſue, a ſon and a doughter by one wyfe, and afterwarde a ſon by an other, he dyeth, and after his death the eldeſt ſon entreth not but dyeth without yſſue, before he can make actual entre, here in this caſe his ſyſter ſhall not haue the landes, as heyre to her brother, bycauſe her brother was not actuall poſſeſſed, but the yonger brother ſhall haue theym as heyre to his father. Yet if the eldeſt ſon in that caſe had left behinde him yſſue of his body, whether it had ben ſon or doughter, this yſſue notwithſtandynge that the father of the iſſue was neuer poſſeſſed either actually, or in the law, ſhal haue the landes: ſhal conuey his diſcent frō his father, the cauſe herof is this, that the ſon or doughter is lynyal heyre where as the brother, ſyſter, vncle, aunte. &c. be heires collateral, + ſo ye ſhal obſerue a diuerſite.

Dyuerſytye.

¶ I call an actuall poſſeſſyon, when a man entreth in dede into landes, whiche be to hym diſcended, but a poſſeſſyon in lawe, is called when landes be diſcended to a perſon, and he hath not yet really, and actually entred into theym. For notwithſtandynge that he is in actuall poſſeſſion, yet he is poſſeſſed in the lawe, that is to ſay, in the eye and conſyderacyon of the lawe, he is demed to be poſſeſſed, for as muche as he is tenaunt to euery mans action, that wyll ſue for the ſayde landes, for elles aſſuredly there ſhulde inſue as entollerable inconuenyence, as we ſhal more copyouſly open in an other place.

Hereditas quid ſit.

¶ Ye ſhall furthermore vnderſtande, that this word inheritaunce is not only to be accōmodate and applyed to that whiche commeth by diſcent

of

or succession from a mans auncestoures, or predecessours, but also to euery purchase in fe simple, or fee tayle.

¶ And note that a man can haue no larger, or greater estate then fee symple.

¶ Of fee tayle.

YE shal vnderstande, that before a certeyne statute, called the statute of Westmynster seconde, there was no state tayle, but all was fee symple, eyther pureiye, that is to saye, without condition, or at the lest way conditionally, as appereth by the pretence of the said statute, but nowe sithens the promulgating of the statute, diuers formes of statute taile haue risen

West.2. Capt.1.

¶ Fee tayle is, when it is prescribed and lymytted in the gyfte, what sorte of heyres, and by whom engendred shal inherite.

Diuisio.

¶ As for example, I giue landes to a man and to his heires, and go no further, this is fee simple: but yf I make a lymitacyon, and adde of his bodye begotten, nowe it is fee tayle, that is to say, a fee or inheritaunce lymytted, prescribed, determinate, or assygned.

¶ So that yf I gyue landes to a man, and to his heyres, he hath fee symple, but yf I gyue landes to hym and to his heyres of his bodye lawefullye begotten, he hath but a fee tayle, for asmuche as I appoint, lympt, prescribe, and expresse what heyres they shalbe, and for lacke of suche heyres, the gyfte shalbe expired and worne out, and the landes shalbe reuerte agayne to the gyuer, or his heyres.

☞ But ye must obserue and note, that there be two kyndes of fee tayle. There is a generall

tayle

tayle, and there is specyal tayle.

Generall tayle.

¶ Fee tayle generall is, as where landes be gyuen to a man and to his heyres of his bodye begotten, without any mencyonynge and expressynge by what woman they are begotten. And therfore yf a man be tenaunt in the generall tayle of landes, and taketh a wyfe, and hath yssue by her, and she dyeth, and afterwarde he taketh another wyfe, of whom he hath also another issue, here eyther of these yssues is inheretable to this lande entayled. But yf I expresse in the gyfte by what woman the heires shalbe procreate and ingendred, then is it an especyall tayle, as for example to make the thynge playne, yf landes be gyuen to a man, and to the heyres of his bodye lawfully begotten, by Margarete his wife, this is an especyall tayle, for the yssue of hym begotten by an other woman, shall neuer inheryte by force and vertue of the tayle. Lykewyse it is, yf landes be gyuen to a woman, and to the heyres of her body lawefully begotten (and shewe not by what man) this is a generall tayle, but yf I go forth and saye, by suche a man her husbande, then it is an especyall tayle.

Especyall tayle.

¶ Also yf I gyue landes to a man and to his wife, and to the heyres of theyr two bodyes lawfully begotten: this is an especyall tayle, aswell in the husbande as in the wyfe.

Franke maryage.

¶ Semblable it is, yf a man gyueth landes to an other man with his doughter, or kinswoman in franke mariage, this worde (franke mariage) implyeth a state tayle especyallye, and in this case as well the man as the woman hathe estate in the specyall tayle.

¶ But yf I gyue landes to a man and to suche a woman

a woman, and to his heyres that he ſhal beget of her, here the woman hath eſtate but for terme of her lyfe, and the huſbande an eſtate in the eſpeyall tayle. And lykewyſe it is in the womans behalfe, as yf I giue landes to a man and to his wyfe, and to her heyres of the bodye of her ſayde huſbande engendred, he hathe an eſtate but for terme of lyfe, and ſhe hath an eſtate in the ſpeyſal tayle. But in both caſes, yf I had ſayd to the heyres, and not his nor her heyres, then ſhuld eyther of them haue had an eſtate in the ſperyall tayle, bycauſe this worde heyres is alwei referred to the one as to the other.

¶ Ye ſhall alſo vnderſtande, that yf landes be gyuen to a man, and to the heyres males of his bodye, that is a ſtate tayle, and in this caſe the heyre female ſhall neuer inheryte. Dyſcente by heyres males.

¶ Alſo yf a man hath yſſue and dyeth, and landes be giuen to him and to his heyres of his body begotten, this is a good eſtate taile, although the father were dead, at the tyme of the gyfte.

¶ Finally it is to be noted, that of landes whiche a man hath in fee ſimple, the poſſeſſion of the brother ſhall cauſe the ſyſter germayne, that is to ſaye, the ſyſter bothe by the fathers ſyde and mothers, to inheryte, and in this caſe the brother by the halfe bloude, ſhal not inheryte, as heretofore was ſayd, but of landes whiche be intailed otherwyſe it is. Therfore yf a man be ſeaſed of landes in the generall tayle, and hath yſſue by his fyrſt wyfe, a ſon and a doughter, and alſo a ſon afterwarde by an other wyfe, and dieth, and the eldeſt ſon entreth into the landes, and after dyeth, the ſyſter germayne to the eldeſt ſon, ſhall not haue the lande, but the yonger brother of the halfe

halfe bloude, bycause whosoeuer shall inherye
landes or any other hereditamentes in taile mu
clayme them as nexte and immedyatly heyre, no
to hym that dyeth last seased of the landes, bu
to hym whom the landes were fyrst gyuen vnt
whiche in the case before remembred, is the so
and not the doughter.

Dyuersytye. ¶ Thus ye shall marke a great dyuersytye be
twene the forme of successyon, in the landes o
fee symple, and the forme in fee tayle.

¶ Tenaunt after possibilyte of issue extynct.

WHen landes, tenementes, or other
heredytamentes be giuen to a ma
and to his wife, and to the heires
of theyr two bodyes lawefully
begotten, yt in this case eyther o
thym chaunce to dye before the
haue yssue betwene theym, he or she that ouerly
ueth, is styll tenaunt in tayle, but without al
possibilite of any yssue that can be heyre to thes
landes or hereditamentes thus entayled, and fo
this cause he or she thus ouerliuing, is called te
nant after possibilite of yssue extinct, for in such
a tenaunt is al possibilite of yssue, that may b
inheritable to these landes by force of the gift in
taile vtterly extinct and quenched, and by his o
her deth the state taile shal expire, cease, be abo
lished for euer, and shal reuert and turne agayne
to the gyuer or donour from whence it came.

Dysputable of Wast. ¶ Yet forasmuche as this tenaunt after possi
bilyty of yssue, had ones an inherytaunce in him
he shall not be punyshed by an action of Wast,
though

thoughe he maketh neuer so muche Waste in the landes and tenementes, where as yet in effecte he is but a tenaunt for terme of lyfe.

☞ But yf this tenaunt dothe alyenate in fee, suche landes, he in the reuersyon may entre for the forfeyture. Forfeyture.

¶ And this of estates at this present tyme shal suffyce. But to the intent that ye may the more easely comprehende all the members of the deuysyon of possessyons and estates, which men may haue in landes, tenementes, and other heredytamentes, it shall not be euyll done to set forth as it were in a table before your eyen, the dyuisyon therof, whiche is this.

		Fee symple.	
	State of inherytaunce.		Generall. Specyall.
		Fee tayle.	After pos.
After the common lawe:		Curtesy of Englande.	
		Dowre.	
	Franke tenement onely.	Terme of lyfe.	
Franke tenement.		Terme of others lyfe.	
Possessyon of.	After the custome,	which is deuided in lyke maner as franke tenemēt by the common lawe.	
		Terme of yeres.	
	Reall.	Warde of landes.	
Chatell.		At wyll.	
	Personall.	All goodes moueables.	

HYtherto I haue made a compendyous and shorte declaracion of estates of al sortes. But where I sayde, that amonge systers there is no prerogatiue or preeminence concernynge the inherytynge of theyr auntestours landes, but that they shalbe altogyther inherytours, and make as it were but one heryte, it is expedyent to make a further declaratyon and processe in this behalfe, and to shewe howe and in what maner this partycion shalbe made.

Diuision perceners at the cõtom lawe perceners by custõe,

¶ But ye shal vnderstande that there be beside parceners at the common lawe, whiche be onely systers, also parceners by custome, whiche is amonges brothers, contrary to the course of the common lawe, and this custome is in some places of Kente, and in other places where landes and tenementes be of the tenure of Gauelkinde.

¶ Ye shall therefore knowe, that when a man is seased of lande in fee symple, or fee tayle, and hath no yssue, but doughters, and dye, and the doughters do entre into the landes thus descended vnto them, nowe they be called parceners, or coheires, and by a writ called: De partycione facienda, brought by one of them agaynst the others, they shalbe constrayned by the lawe to suffer an egall perticyon to be made of the landes betwene them.

Writ de perticiõe faciendã.

Particiõ in dyuers maners.

¶ Nowe particyon maye be made in sundrye wayes. One waye is, when they them selues do make particyon betwene them of the hole heryttage, and doo agree vnto the same, and doo entre euery one into her parte so allotted vnto her.

¶ Another way is, when by al their agremente and consent, one common frende doth make the particyon. In whiche case the eldest syster shall

haue

haue the fyrste election, and after her the seconde
syster, and so forthe. But yf they agree that the
eldest syster shal make the perticion, and she ma- 3.
keth it, then the eldest shall not chose fyrste, but
shall suffre all her systers to chose before her, as
it is thought.

¶ There is also an other forme of partycyon, 4.
whiche is egally to deuide the landes into so ma
ny partes, as there be coheyres or parceners, and
to wryte euery parte so deuyded in a seuerall
scroule of paper, and so put the sayde scroules
into a bonet, or to enclose them seuerally in bais
of ware, and then the eldest syster to chose which
she wyl, or to put her hande into the bonet
and to take a scroulle, and to holde her to her
chaunce and allotment, and so consequently eue
ry syster after other.

☞ And ye shall note, that perticyon by agree- Notee.
mente, maye as well be made by nude and bare
wordes without writynge, as by wrytynge.

¶ And yf any of the parceners wyll not suffre
any perticion to be made, the may the other that
wolde haue perticion, purchase a wryt called de A wrytte
particione facienda, agaynste theym that refuse De parti-
perticyon, to compell the same to suffre perticy- cione faci-
on to be made accordyngly, and then by the iudge enda.
ment of the court, the shyryffe by the ceremente
and othe of twelue men, shal make partition be-
twene theym, and shall assygne to ethe syster her
portyon, as he shall thynke good, without gy-
uynge any election, or choyse to the eldest.

¶ And if two manours or meeles happen to dis
cende to two sisters, and the maners be not of e-
gall value, then may she, to whom the lesser ma-
ner or meele is allotted, haue assygned vnto her

Dystresse of commō ryght.

a rente proporcyonablye out of the other manet for the whiche rent she and her heyres may dystrayne of common ryght, thoughe they haue no wrytynge therof.

¶ Fynally, ye shal vnderstande, that yf a man be seased of landes in fee symple, and hath yssue two doughters, and gyuethe with one of hys doughters to another man that shall mary her. the thyrde or fourthe part of his lande in franke maryage, and dieth, yt in this case the doughter that is in this wyse bestowed and auanced wyll haue her porcyon of her fathers herytage, she must put her lande gyuen vnto her in franke maryage in Hochepot newe agayne. I meane she must be contented to suffre her sayd landes to be commixed and mengled with the other landes of whiche her father dyed seased in fee symple, so that an equall diuision may be made of the hole, or elles she shall haue no part of those landes of whiche her father dyed seased. But yf her father had made vnto her but a common gyfte in tayle, or a feffement in fee, she shulde nat nede to put her landes in Hochepotte, but may very well kepe and reteyne them styll, and also haue as good parte of the rest of the landes of which her father dyed seased, as her other syster or systers haue. For a gyfte in franke maryage, is accompted the most free and most lyberall gyft that can be, and that gyfte which the lawe iudgeth to be onely for the auauncemente and bestowynge of the doughter, where as feffementes in fee symple and also comon gyftes in tayle be occustomably for other causes, and for the auauntage rather of the gyuoure, or feffour then of the taker.

Hoche potte.

Franke mariage,

¶ Also yf parceners make partition of landes

beynge

beynge within age, that particion is voyde.
¶ And if perceners in fee simple make particiõ and the part of the one is better then the other beinge of full age of, 21. yeres then the particion is good & can not be defeated, but yf it be of landes in fe taile, the one part being better thẽ the other that particyon may be defeated by theyr heyres.

¶ Of ioyntenauntes.

Ytherunto verelye haue we spokẽ of coheires called parteners at the common lawe, which as is hertofore declared do come to landes and other hereditamentes ioyntly by the course, operacyon and acte of the lawe. Nowe shal we speke somwhat of theym which either ioyntly or seuerally come to landes tenementes, or other heredytamentes, by theyr owne purchase, act, procurement and workyng. And of these they that cum to thẽ by ioint titles way or color, be called ioyntenãtes, but thei that come by seueral titles, waies, or colors, to landes or tenementes, be named tenantes in common. Tenauntes in cõmon.
¶ So then, yf a man beynge seased of landes, or tenementes or other hereditamentes, shal there of infeoffe two, thre, foure, or more, to haue and to hold to thẽ in fee simple, fee tayle, or for terme of their liues, or for terme of an others life, these personnes so infeoued and seased, be called iointenantes. Also yf two mo do expell and dysseyse an other manne of any landes, or tenementes, to thrir owne behofe and vse, these disseisours and

wronge doers are nowe become ioyntenauntes, bicause by their owne acte they come ioyntly to this lande. But yf they do disseise an other man to the vse onely of one of them, in this case they be not ioyntenantes, but he to whose vse the disseisin is made, is tenaunt alone of the same, and the other haue nothynge in the tenaunce, but be called aydours, or coadiutours to the dysseisin.

Disseisin

¶ And ye shall vnderstande, that a dysseisyn is properly, where a man entreth into any landes, or tenementes, there where his entre is not lawfull, and putteth oute hym whiche hath the free holde of the same.

Survyvour taketh place

¶ And ye shal furthermore knowe, that the nature of ioyntenancy is, that he which survyueth and ouerlyueth the other, shall haue to hym selfe alone the hole and entyre tenaunce according to that estate which he shulde haue had, if the ioynture had ben contynued, as (for example) thre ioyntenaunces be of landes in fee symple, and the one hath issue, and dieth, in this case the two whiche do ouerlyue theyr felowes, shal haue the hole landes betwene them, and the yssue of hym that is departed, getteth nothynge. And yf the seconde ioyntenaunt hath also yssue and dye, the thyrde whiche hath ouerlyued them bothe, shall now haue and enioye the hole to hym and to his heyres for euermore.

Dyuersyte.

¶ But otherwyse, it is of coheyres whiche in our lawe be called parceners. For yf there be thre such coheyres and parceners, and before any partition made, the one hath yssue a son or a doughter, and dyeth, his parcyon shal descende and fal to his chylde, and shall not runne amongest the other ioynte heyres, or coparceners.

Howe be it if ſuch parcener or coheyre had dyed without yſſue, then ſhulde his porcyon haue diſcended to his coheyres. But howe⁊nat by force of ſuruyuour or ouerlyuynge which in latyn is called ius acreſcendy, but by very dyſcente, for where any of the coheyres dye without yſſue who can be heyre to him or her ſo dyenge, but the other coheyre to hym or her ſo doynge, but the other coheyre or the reſt of the coheyres yf there be many. ☞ And lyke as the ryght of ſuruyuer or ouerlyuyng holdeth place amonges ioyntenauntes of landes and tenementes, ſo in lyke maner it holdeth place amonges thē which haue ioynte eſtate or poſſeſſion ⁊ others of chatelles whether they be real or perſonall. As (for example) yf a leaſe of landes or tenementes, be made to many for terme of certayne yeres, the ouerlyuer or ouerlyuers ſhall haue the hole durynge the terme by force of ꝑ ſame leaſe. So of chatels perſonall, yf an horſe, oxe grayne or other ſuche perſonall chatell be gyuen to many, he whiche ouerlyueth ſhall haue the ſame alone. In ſēblable wyſe it is of dettes and duties. For yf an obligation be made to many for one det, and ſo of other couenauntes and contractes.

Joyntenauntes of ryal or perſonall goodes.

¶ Alſo ſome Joyntenauntes maye be whiche may haue ioynt eſtate and be ioyntenauntes for terme of theyr lyues, and yet haue ſeuerall inheryteauntes. As where landes be gyuen to two men and to the heyres of their two bodies engendred, in this caſe, theſe two perſonnes haue ioynte eſtate for terme of theyr two lyues. And yet they haue ſeuerall inheritaunces. For yf the one haue yſſue and dye, the other that ſuruiueth ſhal haue all by force of the ſuruiuour for terme

Joyntenauntes of ſeuerall inheryteaunce.

of his lyfe. And yf he that ſurvyueth hath alſo yſſue and dy, than the yſſue of the one ſhall haue the halfe of the landes, and the yſſue of the other ſhal haue the other halfe, & they ſhal hold the lāde betwene them in cōmune, and ſhal nat be ioynte nauntes, but tenauntes in cōmon, and the cauſe and reaſon why ſuch wones in ſuch caſes haue ioynt eſtate for terme of theyr lyues, is, for that at the beginning the landes were gyuen to them two, which wordes without more ſaynge, make a ioynt eſtate to them for terme of theyr lyues. For yf a man wyl let lande to another by dede or without dede, nat makinge mencyon what eſtate he hath, and of this maketh lyuery of ſeyſyne, in this caſe the leſſee ſhall haue a ſtate for terme of his lyfe. And if he haue no liuery of ſeyſine, he is but tenant at wyl. And ſo forasmuche as the landes were gyuen vnto them, they haue a ioynte eſtate for terme of theyr lyues. But the cauſe why they haue ſeuerall inherytaunce, is this, for that they can nat by poſſibilitie haue an heyre betwene them engendred as a mā and a woman may haue, wherfore the law wyl that theyr eſtate and their inheritaunce ſhalbe ſuch as reſon wyl, after the forme and effect of the wordes of the gift, & that is to the heires that the one engendred of his body, by any of the wiues, and to the heires that the other engendreth of his bodye by any of his wiues. So it behoueth by neceſſitie of reſon, that they haue ſeuerall inheritaunces. And in ſuch caſe yf the yſſue of one of them after the death of them both dieth dy, ſo that he hath no yſſue alyue of his body engendred: then the donour whiche gaue the landes or his heire may entre in the halfe as in his reuerſyon, thoughe the other

Tenauntes in cōmon.

hath

hath yſſue a lyue, and the cauſe is, that foraſmuch as the inherytaunces be ſeuerall, therfore the reuercyon in the lawe is ſeuered, and the ſurvyuour of the yſſue of the other ſhal holde no place to haue the hole. And as it is ſayde of males, in the ſame maner it is where landes be gyuen to two females and to the heyres of theyr .ii. bodies begotten. ☞ Alſo yf landes be gyuen to two and to the heyres of one of them, this is a good ioyntenaunce, and the one hath a fee holde, and the other hath a fee ſimple, and yf he which hath fee ſimple dy, he that hath the freehold ſhal haue the hole by the ſurvyuour for terme of his lyfe. Survyuour holdeth no place.

¶ And yf theſe two ioyntenauntes ioyne in a gyfte in tayle to a ſtranger, reſeruynge a rent to hym that hath a ſtate but for his lyfe, this reſeruation is voyde to make a tenure. Lykewyſe it is where tenementes be gyuen to two and to the heyres of the body of one of them engendred the one hath freholde and the other fee tayle.

¶ Note, yf two ioyntenauntes be ſeaſed of eſtate of fee ſymple and the one graunteth a rente charge by his dede to another, out of that which to him belongeth, in this caſe duryng the life of the grauntour the rent charge is good and effectuall, but after his deceaſe the rente charge is voyde, as to charge the landes, for he that hathe the lande by the ſurvyuoure ſhall holde all the landes diſcharged, the cauſe is, for that he that ſurvyueth, claymethe to haue the lande by the ſurvyuours, and not by delent of his felowe. Rente charge graunted by a ioyntenaunte.

¶ But otherwiſe it is of perceners or cohyres, for yf there be .ii. perceners in fe ſimple, & before any yticiō made, the one chargeth that, yt to hi belongeth by his dede of a rent charge & dieth with Dyuerſyte.

out issue, here that which to him belongeth discendeth to the other parcener, and in this case the other parcener shal holde the land charged bicause he commeth to the halfe by discent as heyre.

¶ Also yf there be two ioyntenantes in fee simple, within one boroughe, where the landes and tenementes within the same borough be deuisable by testamēt, yf ꝑ one of ꝑ sayd ioyntenaūtes deuyse that whiche to him belongeth by testament, and dy, this deuyse and legation is voide. And the cause is for that, ꝑ no deuyse may take effect tyll after the death of the testatour which bequethed & deuysed the same, and by his deth all the lande incontynent commeth by the lawe to his felowe that suruyueth by the suruyuour which neyther claimeth nor hath any thynge in the lande by the deuyse, but in his owne ryght, by the suruyuoure, after the course of the lawe, and for this cause suche deuyse is voyde.

Deuyse by testament.

¶ But otherwyse it is of parceners seased of tenementes deuisable in suche case of deuyse for the cause aboue remembred. Also it is commonly sayde that euery ioyntenaūt is seased of ꝑ lande that he holdethe ioyntlye par my et par tout, that is, throughe out and by all. And that is as muche to say, that he is seased by euery parcell and by all, whiche sayenge is true, for in euery parcel and part, and throughe out al the landes and tenementes he is ioyntlye seased with his felowe. And therfore yf the one ioyntenaunte make a feffement to his cōpanyon, this is voyde bicause he can make no tyuery of seasen to him. Also yf two ioyntenauntes be seased of certaine landes in fee simple & thone letteth that, ꝑ to him belongeth to a straunger for terme of xl. yeres, & dyeth

A ground in ꝑ lawe

Tyuerlyte.

bythe within the terme, in this cause after hys death the lessee maye enter & occupy the halfe to hym letten, durynge the sayd terme, though the lessee neuer had possessyon of it in the lyfe of the lessour by force of the leale. And the dyfference betwene the case of the graunt of a rente charge and this case is this that in the graunt of a rente charge by a ioyntenaunt the landes or tenementes abyde alwaye as they were afore, without that, ꝑ any hath right to haue parcell of the tenementes but them selfe and the tenementes abyde in suche plyte as they were before ꝑ charge But where a lease is made by a ioyntenaunt to another for terme of yeres, incontynent by force of the leale the lessee hath right in the same land, that is to say, of all that, that to his lessour belongeth, by force of the same leale durynge hys terme. And yf the lessour in this case dye, the other ioyntenaunt shal haue the rent or terme durynge the sayde terme, bycause the reuersyon is come to hym by survyuour. Fynally yf a ioynte estate be made of lande to the husbande and wyfe and to the thyrde person, in this case the husbande & the wyfe haue not in the lawe in theyr right but the halfe, and the thyrde person shall haue as muche as the husbande & the wife haue, that is to saye, the other halfe.

Dyuerste betwen a graunte of a rente and a leale.

¶ And the cause is for that the husbande and wyfe be but as one person in the eye of the law, and it is here in lyke case as yf estate be made to two ioyntenauntes where the one hathe by force of ioynture the one halfe, & the other the other halfe. In lykewise wyse it is where estate is made to the husbande and wyfe and to other two men, in this case the husbande & the wyfe

haue not but the thyrde part, and the other two men the other two partes.

¶ Also yf two or three togyther disseiseth an other of landes and tenementes to theyr owne vses, thē such disseisours be called iointenaūtes. More shalbe sayde of this matter, touchynge ioyntenauntes in the nexte chapiter.

¶ Tenauntes in common.

TEnauntes in Common (as I saide before) be they that haue landes or tenementes in fee simple, fee tayle, or for terme of lyfe, whiche haue suche landes and tenementes by seuerall tytle, and not by ioynt tytle, and none of them knoweth that which is seuerall to him. And in this case they ought by the lawe before partician made betwene them, to occuppye such landes and tenementes in cōmon and for vndeuyded to take the profites in common. And bicause they come to such landes and tenementes by seuerall tytles, and not by one selfe ioynt tytle, and their occupation and possession in the same is among theym in common, they be called tenauntes in common, or tenauntes pro indiuiso. As for example, yf a man infeoffe two ioyntenauntes in fee simple, and the one of them alyeneth that, that to him belongeth to another in fee, now the other ioyntenant and he to whom the alienacion was made be tenantes in common, for that they be seased of such tenementes by seuerall tytles. for the one commeth to the one halfe by the feoffement of the ioyntenant, and the other hath the other halfe by force of the fyrst feoffement made to hym and to his fyrst felowe, and so they be in

by

by ſeuerall tytles, and by ſeuerall feoffementes.

¶ And it is to wyt, that when it is ſayd in any boke, that a man is ſeaſed in fee, without more ſaieng or addition, it ſhalbe vnderſtande fee ſimple, for it ſhal not be vnderſtande by ſuch word in fee that a manne is ſeaſed in fee tayle, excepte there be put in it ſuch addycyon (tayle.) Diſtynccyon of fee ſymply.

¶ Alſo yf thre ioyntenauntes be, and the one of them alieneth that which vnto him belongeth to an other in fee, in this caſe the alyene is tenaunt in common, with the other two ioyntenauntes. But yet the other two ioyntenauntes be ſeaſed of the .ii. partes ioyntly, and of theſe .ii. partes the ſurvyuour betwene theym holdeth place. Ioyntenauntes.

¶ Alſo yf there be two ioyntenauntes in fee, and the one gyueth that, that vnto hym belongeth to an other in the tayle, the donee and the other ioyntenaunt, be tenauntes in common. But yf the landes be gyuen to two menne, and to the heyres of theyr two bodyes engendred, the donees haue ioynte eſtate for terme of theyr lyues, and yf eche of them haue yſſue and dye, theyr yſſue ſhall holde in common.

¶ Alſo yf landes be gyuen to two men to haue and to holde, the one halfe to the one and to his heires, and the other halfe to the other and to his heyres, they be tenauntes in common.

¶ Alſo yf a man ſeaſed of certayne landes, enfeoffeth an other in the halfe of the ſame lande, without any ſpeche of aſſignement or limitacion of the ſame halfe in ſeuerality at the tyme of the feoffement, then the feoffee, and the feoffour ſhall holde theyr partes of the lande in common.

¶ And as it is of tenauntes in common of landes or tenementes in fee ſymple or fee tayle, euen

ſo

so it is of tenauntes for terme of lyfe. Therfore if two ioyntenantes be in fee, and the one letteth to a man that, that vnto him belongeth for terme of lyfe, and the other ioyntenaunt letteth that whiche to hym belongeth to another for terme of lyfe also, these two lessees be tenantes in cōmon for terme of theyr lyues.

Ioyntenauntes.

¶ Also yf a man let landes to two men for terme of theyr lyues, of whom the one graunteth all his estate to another: then that other tenaūte for terme of lyfe, and he to whom the graunte is made shalbe tenantes in comon during the tyme that both lessees be alyue.

¶ Note yf there be two ioyntenauntes in fee, and the one letteth that, that vnto hym belongeth to another for terme of lyfe: that tenant for terme of lyfe during his life and another tenaūt that dyd nat let be tenauntes in comon. And vpon this case a question maye ryse as this. Let the case be that the lessour hath issue and dyethe, lyuynge the other ioyntenaunt his felowe, & lyuynge the tenaunt for terme of lyfe, the question is, whether the reuersyon of the halfe that the lessour hath, shal discende to the issue of the lessour or whether the other ioyntenaūt shall haue it by the suruyuoure or no. And some haue sayde, that the other ioyntenaunt shall haue the reuersyon by the suruyuoure, for as muche as when the ioyntenauntes were ioyntly seysed in fee symple, though one of thē made estate of that that vnto hym belongeth for terme of lyfe, and thoughe he hath seuered the franke tenement of that, that to hym belongeth by the lease, yet he hath nat seuered the fee symple. But the fee simple abydeth to theym ioyntlye as it was before.

Question

And

And ſo it ſemeth vnto them, that the other ioynt tenaunt, whiche ſurvyueth ſhall haue the reuerſyon by the ſurviuour. But other haue thoughte the contrary, and this is theyr reſon. When one of the ioyntenauntes letteth that whiche vnto hym belongeth, to an other for terme of lyfe, by ſuche leaſe the franke tenement is ſeuered from the ioynture. So that the reuerſyon that is dependaunt vnto the ſame franke tenement, is ſeuered from the ioynture. Furthermore yf the leſſour had reſerued to hym a yerely rent vpon the leaſe the leſſour onely ſhuld haue the rent, wiiich is a proofe that the reuerſion is onely in hym and that the other hath nothynge therein.

☞ Also yf the tenaunte for terme of lyfe were impleded, and make defaute after defaut, the leſſour ſhalbe onely herevpon receyued to defende his ryght, and not his felowe, which proueth the reuerſyon of the halfe, to be onely in the leſſour, and ſo conſequently, yf the leſſour dye, leuynge the leſſee for terme of lyfe, the reuerſyon ſhall dyſcende to the heyres of the leſſoure, and ſhall not come to the other ioyntenaunt, by the ſurviuour after theſe mens opinions, yet it is a dout. But in this caſe, yf the ioyntenaunte that hath the franke tenement, haue iſſue and dye, leuynge the leſſour and the leſſee, then it ſemeth that the yſſue ſhall haue the halfe, in his demeſne, as of fee by dyſcente, for as muche as the franke tenemente, may not by nature of the ioynture be annexed to a reuerſyon, and it is certayne that he that letted, was ſeſed of the halfe in his demeſne as of fee, and that none ſhall haue any ioynture in his franke tenemente. So that this ſhall dyſcende to his yſſue.

Reſceyte.

Duert.

If

Release. ¶ If the toyntenauntes be, and the one releaseth by his dede to one of his felowes all the ryght he hath in the lande, then hath he to whom the release is made the thyrde part of the landes by force of the release, and he and his felowe shal holde the other.ii. parties toyntly. And as to the thyrde part that he hath by force of the release he holdeth it with him selfe & his felowe in cõmon.

¶ And it is to wyt, that somtyme a dede of release shall take effecte, but the state of hym that made the release in hym, to whome the release is made as in case aforesayde.

¶ Also yf a toynt estate be made to the husbãde and wyfe & to the thyrde person, and the thyrde person releaseth hys ryghte that he hath to the husbande: than hathe the husbande the halfe, whiche the thyrde person had, and the wyfe of this hath nothynge. Semblably yf the thyrde person had released to the wyfe nat naminge the husbande in the release, then shuld the wife haue the halfe that the thyrde person had, and the husbande nothinge of this but the right of his wife bycause suche release shal enure to put the estate to him to whome it was made of al that, that belongeth to hym that made the release. Agayne in some case a release shall enure and serue to put all the ryght that a man hath, that made the release in hym to whome it is made. As a man beynge seased of a certayne landes is disseysed by two disseisoures, yf the person disseised by hys dede release all his ryght, to one of the disseysours, than he to whom the release is made shall haue and holde all to him alone and put out his felowe of the occupacion of it. And the cause is for that the two disseysoures were seased by

wronge

wronge by them done agaynst the lawe, & whan one of them getteth the release of him that hadde ryght to entre, this ryght resteth in hym to whom the release is made, and in suche plyte as yf he that had the right had entred and enfeoffed him of the same. And the cause is, for that he that before had an estate by wrong hath nowe by the release a ryghtfull state.

Release by waye of extinguysment.

¶ And in some case a release shall enure and take effecte by way of extinguysment, and such a release shall helpe the ioyntenaunte to whome the release was nat made aswel as hym to whom it is made, as yf a man be disseised, and the dysseisour maketh a feoffement to two men in fee, yf the person disseised release to one of the feoffes in fee by the dede than such release shal enure to both the feoffes, bicause the feoffes haue estate by the lawe, that is to saye, by the feoffement and nat by wronge done to any other.

A release shal enure to hym in the remainder.

¶ And in lyke maner yf the dysseysour make a lease to a man for terme of lyfe, the remaynder ouer to another in fee, yf the disseisie wyll release to the tenant for terme of lyfe all his ryght this release serueth as wel to him in the remaynder as the tenaunte for terme of lyfe. And the cause is for that the tenant for terme of lyfe commethe to his estate by the course of the lawe, and for this cause the release shall enure and take effecte by way of extinguishement of the ryght of hym that hath released. And by this release the tenaunte for terme of lyfe hath no greater estate than he had before, the release made vnto hym and yet the ryght of hym that released is all vterly extynete and gone. Wherfore for asmuch as suche release can nat enlarge the state of the

tenaunte

naunt for terme of lyfe, it is reason, that it shall serue hym in the remaynder.

¶ Also yf there be two parceners, and the one alyeneth his parte to an other: the other partener and the alyene be tenauntes in common.

Tenauntes in common by tytle of prescriptiō

¶ Furthermore tenauntes in common, may be by tytle of prescryption, yf the one and his auncestours, or they whose estate he hath in the halfe haue holden in common the same halfe with the other tenant that hath the other halfe, and with his auncestours, or them whose estate he hath as vndecyded tyme out of mynde.

Actions seueral.

¶ Also ye shal marke, that in some case tenauntes in common ought to haue of their possession seuerall actions, and in some case they shal ioyne in one action, for if there be two tenantes in common and they be disseised, they ought to haue against the disseisour two assises: not one assise

Assyse.

For euery of them ought to haue an assise of his halfe, because they were seased by seuerall tytles but otherwise it is of ioyntenantes, for yf there be twenty ioyntenauntes, and they be dysseysed, they shall haue in all theyr names, but one assise because they haue but one ioynt tytell.

¶ Also if there be thre ioyntenauntes, of whom the one releaseth to one of his felowes, all the ryght he hath, and afterwarde the other two be

Assyse.

dysseased of the hole, in this case they shall haue in bothe theyr names one assyse of the two partyes. And as to the thyrde parte he to whom the release was made, ought to haue therof an assise in his owne name, because as to the thyrde parte he is tenaunt in common.

Dyuersyte.

¶ Also as to sue actions that touche the realty there is diuersite betwene parceners, that in dyuerse

in dyuerſe diſcentes, and tenauntes in common. For if a man ſeaſed of certayne landes in fe hath iſſue two doughters and die, and they entre into the landes as coheyres, and eche of them hath yſſue a ſonne and dye, without partition made betwene them, ſo that the one halfe diſcẽdeth to the ſon of the one percener, and the other half to the ſon of the other and they entre and occupy in common, and be diſſeaſed, in this caſe they ſhal haue in their two names one Aſſile, and not two Aſſiſes. And the cauſe is, thoughe they come in by dyuers diſcẽtes, yet they be coheires and percẽners ¶ Alſo if two tenantes in common of certayne landes in fee, gyue the ſame to an other man in the tayle, or let it to an other for terme of lyfe, yelding an annuyte or certayne rent of a pounde of Peper, or an Hauke or an Horſe, and they be ſeaſed of theſe ſeruiceſ and afterward al the rent is behynde, and they diſtreyne for it and the tenant maketh them reſcous, in this caſe as to the rent and pounde of Peper, they ſhall haue two Aſſiſes, and as to the Hauke, and Horſe, but one Aſſyſe. And the cauſe why they haue two Aſſyſes, as to the rent and pounde of Peper is, for that they were tenantes in comon by ſeuerall tytles, and when they made a gift in the tayle or leaſe for terme of lyfe, rauyng and reſeruynge to thẽ the reuerſion and yeldyng to him certain rẽt his reſeruacyon is incydent to theyr reuerſion. Reſcous.

¶ And becauſe their reuerſion is in comon and by ſeuerall tytles, euen as theyr poſſeſſyon was before the rente and other thynges whiche may be ſeuered, and whiche were to them reſerued vpon the gyfte or vpon the leaſe (whiche be incydent by the lawe, to the reuerſion) therfore ſuche

thynges so seuered be of the nature of reuersyon. Wherfore it behoueth that the rent and the pounde of Peper, whiche may be seuered be to them in common by seuerall tytles. And of this they shall haue two Assyses, and euery of theim in his Assyse, shall make his playnt of the halfe of the rente, and of the halfe of the pounde of Peper. But of the Hauke, and the Horse, whiche can not be seuered, they shall haue but one Assyse, for it were an absurdytye, and a thynge inconuenyent to make a playnt in Assyse, of the halfe of an Hauke, or the halfe of an Horse. In lyke maner it is of the other rentes and seruyces, that tenauntes in common haue in grosse by dyuerse tytles.

Playnte in Assise.

Personal actions.

¶ And ye shall vnderstande, that concernynge action personalles, tenauntes in common ought to haue them ioyntly in al theyr names, that is say, of trespases, or of offences that couche theyr tenementes in common, as of breakynge of theyr houses, brekynge of theyr closes and pastures, wastynge and defoulynge of theyr grasse, cuttynge of theyr woodes, and of fyshyng in theyr pondes, and suche other, and they shall recouer ioyntlye damages, bycause the action is in the personalty, and not in the realty.

Damage,

Tenauntes in cōmon shall haue one actyon of Dette.

☞ Also yf tenauntes in common make a lease of theyr tenementes to an other for terme of yeres, yeldynge vnto them yerely a certayne rente, yf the rent be behynde, they shal haue one action of Det agaynst the lessee, and not dyuerse actions, bicause the action is in the personalty. But in auoury for the sayde rent, they ought to seuer bycause it is in the realty, as the Assyse is.

Auoury.

Tenauntes

¶ Tenantes in common of chatels.

IT is to be knowen, that as there be tenauntes in comon of landes, or tenementes: so there be tenauntes in comon of possessyons, and properryes of chatels, as well reall as personall. Of reall, as yf a lease be made of certayne landes to.ii.men for terme of.20.yeres, and whē they be therof possessed, the one graunteth that, that vnto hym belongeth, durynge the terme to another, he to whom the graunt is made, and the other shall holde and occupy in common.

¶ Also if.ii. ioyntenantes haue the ward of the body, and of the landes of an heire within age, & thone of them granteth to an other that, that vn to hym belongeth of the same warde, then he to whome the graunte is made, and the other that graunteth not, shal haue and hold it in common. Joyntenantes of a warde.

¶ Of chatels personels, as if two haue a ioint estate eyther by gifte, or by byeng of an Horse, or of an Oxe, or such lyke, & the one of them graunteth that, that to hym belongeth, here shall the graunter, and he that graūted not, haue and possede such chatel personal in comon. And in suche cases, where dyuerse persons haue chatels reals or personals in comon, and by diuerse tytles yf one of thē die, the other that suruiueth shall not haue his felowes part by the suruiuōur, but the executours of him that dieth shal hold and occupy it with him that suruyueth in lyke forme, as theyr testator did or ought in his life, forasmuch as theyr tytles and ryghtes were seuerall.

¶ Also in the case aforesaid, yf two haue eschete in common for terme of yeres, and the one dothe occupy all, and put the other out of his possession and occupacion, thē shal he that is put out haue against thother a writ, de Electione firme, for the halfe. In semblable maner where two holde the ward of landes or tenemētes during the nonage of a child, if one shal put out the other of his possession, he that is out shal haue a writ de Electione custodie, of the half, bicause these thinges be chatels reals, & may be appoxtioned and severed. But no actiō of trespas lieth for the one against the other (as for exemple quare clausum suū fregit et herbā suam conculcauit et consumpsit, nor such like actions) forasmuche as eche of thē may enter and occupy in comon. But if two be possessed of chatels personels in comon by diuerse tytles, as of an Hoyle, or Oxe, Cowe, yf the one take it all to hym selfe out of the possession of the other, the other hath none other remedy, but to take it agayne from hym that hath done hym the wronge, when he may see his tyme.

¶ In lyke maner of chatels reals, whiche may not be severed, as in the case aforesaid, where .ii. be possessioners of a ward of the body of a child within age, yf one shall take a chylde out of the possession of the other, the other hath no remedy by any action at the law, but to take the chylde of the others possession, when he seeth his tyme.

¶ Fynally ye shall vnderstande, that when a man in pledynge and declarynge his cause, wyll shewe a dede of feoffement made vnto hym, or a gyfte in the tayle, or a lease for terme of lyfe, of any landes or tenementes, shall vse his termes in this wyse, and saye, by force of suche feoffe-

ment

A writ de Electione firme.

De Electione custodie, Trespas

Fourme of pleadynge.

mente, gyfte, or lease, was seased.
¶ But where a man wyll declare or pleade a lease or a graunt made vnto hym of a chatel real or personall, these he shall say by force of which he was possessed.

¶ Of perticion to be made by ioyntenauntes and tenauntes in common inacted Anno.xxx.H.viii.

All ioyntenauntes and tenantes in comon of any estate of inheritaunce in their own ryghtes or in the ryght of theyr wyues of any lãdes or hereditamentes within this realme of Englande, Wales, or the marches of the same shal and may be compelled to make perticion betwene them of the same which they so holde as ioyntenauntes, or tenauntes in common, by a wryt de Partitione facyenda, to be deuysed in the Chancery in like maner as two parceners ar compelled to do, and the same wryt to be pursued at the common lawe. And after such perticion made euery of the sayd ioyntenantes and tenauntes in cõmon shall ꝛ may haue ayde of the other or of theyr heyres, to thintent to dereigne the warrentie paramoũte and to recouer for the rate as it is vsed betwene coparceners after perticion made by the ordre of the common lawe.

Wyrt de Partitione faciendo.

Ayde prayed.

¶ Item in the .xxxii. yere of kynge Henry the viii. Cap. xxxii. it is further inacted that all ioyntenauntes ꝛ tenaũtes in cõmon which hold ioyntly or in common for terme of lyfe, yere or yeres or ioyntenauntes or tenauntes in comon, where one or some of them haue estate for terme of lyfe or yeres with other that haue estate of

inheryteaunce or free holde in any landes or other hereditamentes shalbe compellable by wrytte of Partycion to be purlued out of the chauncerye vpon their cases to make seueraunce and partycion of all suche landes and hereditamentes as they holde iointly or in common for terme of life or liues, yere or yeres where one or some of them holde iointly or in common for terme of lyfe or yeres with other that haue an estate of inheryteaunce or free holde. Prouyded that no suche partycion nor seueraunce, be hurtful to any person, other then suche as be parties vnto the said partycion theyr executours or assygnes.

¶ Of condicions.

Or almuche as euery estate is eyther pure, or condicionall, it were not amisse to make some declaration of the nature and effycacy of condicions. Wherfore ye shall vnderstande that of condicions, some be actuall condicions, & be called expresse condicions or condicions in deede, & other some be condicions in law which be called also in latine condiciones tacite, siue condiciones implicite, bycause they be tacitely implyed by the lawe and not expressed.

Dyuysyon.

Condycyons in deede.

¶ Condicions in deede be suche as be wryt and annexed by expresse wordes to the feoffement lease or graunt, eyther in wrytynge or without, as for example, yf I infeoffe a man in certayne landes, reseruyng to me and to my heyres so muche rente yerely to be payde at suche a feaste. and for defaute of payment, that it shalbe lawful for me to reentre, this is a feoffement vpon condition

cion of payment. And here the not paymēt of the rent shall dissolue and vtterly defete the feoffement, sēblably it is of gyftes in tayle, leases &c.

¶ But yf the condicion be, that for defaute of payment of the rente, it shalbe lawfull for the feoffour to entre agayne into the landes, and to holde them tyll he be contented and satysfyed of the rent, this condicion not performed doth not dissolue nor vndo the feffement, but onely gyueth to the feoffour an authorytie to retayne the landes (as it were by way of distresse) tyl he hath leuyed the arrerages of the rente. And ye shall well marke and obserue, that condicions be sometyme made to be perfourmed on the feoffees behalfe, and sometyme on the feoffours behalfe. On the feoffees behalfe, as when I enfeoffe you of landes or tenementes vpon condycion that ye shall do suche an act, as to pay vnto me or to myne heyres suche aunuell rent.

Dystresse

¶ On the feoffours behalfe, as when I make a feoffemente vnto you vpon condicion that yf I pay or cause to be payde vnto you before suche a daye suche a summe of money, then it shalbe lawfull for me to entre agayne and retayne my landes in my former estate. In this case he that is the feoffee, is called tenaūt in morgage, which is as muche to say as dede gage, and it semethe that the cause why it is so called, is for as much as it is doubtful whether the feoffour wyll pay at the day lymytted and prescrybed such summe of money for the redemption of his landes or no, for yf he do not, hys tytle or entresse in the landes thus gaged and oppygnorate is vtterly extynete & gone without all hope of renuynge.

Tenauntes in morgage.

¶ Ye shall also note, that yf the morgageour

dyeth before the day of payment, his heyre may redeme the lande very well, euen as well as his auncestour that mortgaged the lande myght haue done, all thoughe there be no mencion made of heyres in the wrytynge.

¶ Also when the money is lawfully by the mortgagour or his heyre tendred and proffered, and the feffee refuseth to receyue the same, that feoffour or his heyre may entre, and than hath the feoffee no remedye for his money at the comen lawe. ¶ Ye shall understande also, that some condycions be vtterly voyde in the lawe, and of none efficacye, vertue or strength, as yf a feoffement be made of lande in fee symple vpon condicion, that the feoffee shal not alyene or put away the same to none other, this condicion I saye is voyde, bycause the feoffee is restrayned of his hole power that the lawe gyueth in suche case vnto hym, and whiche power and lyberte, is in maner included in euerye feoffemente. Yet I maye abbredge hym of parte of hys power, as to condicion with him that he shal not alyene the landes to suche a persone or suche. But of gyftes in tayle otherwyse it is, for yf I gyue landes to a man and to the heyres of his bodye lawfully begoten vpon condycion, that he nor his heyres shall alyene the landes to none other persone, this condycion is good and effectuall in the lawe, and yf he or his heyres contrary to that condycion do alyene them, than the gyuer or hys heyres may very well entre and retayne the landes for euer, bycause this condycyon shall stande with the forenamed statute of Westminster secund, which prohibyteth such alyenacions to be made.

Condicions voide

Gyftes in tayle vpō condicion

Hyther vnto

Hytherunto haue I spoken of condicions in dede, nowe wyll I shewe what be condicions in lawe that be annexed to any estates.

Estates vpon condicions in lawe.

Knowe ye therfore, that yf the office of a Porter, stewarde, Constable, Bedell, or bayliffe or suche lyke offices graunted to any man for terme of his lyfe, thoughe there be no condicion ne all mencioned in the graunt, yet the lawe speaketh of a condycion in this cause, which is, that yf the partie to whom such office is gyuen shall not execute all paynes appertaynynge vn to his office accordyngelye, by hym selfe or hys lawfull deputye, it shalbe lawfull for the graun tour to entre and discharge hym of his office, and this condicion is called a condicion in law. There be also thre other maners of estats vpō cō dicion that is to say, cōdicions agaynst the law, condicions repugnant, and condicions impossyble.

Condicions against the lawe.

Fyrst estates vppon condicion, agaynste the lawe be, as yf a man maketh a feoffement, gyft graunte or lease vpon condicion that yf the feoffours, donours, grauntours, or lessours kyll. J. S. whiche is not the kynges enmy, or burne his house, that then it shall be lawfull to the fe offours, donours. &c. to reenter, this condicion is voyde and the estate is good.

And lyke lawe is it such condicions be to be performed of the part of the feoffe, graunt. &c.

But yf case be that a lease for terme of yeres be made of lande vppon condicion, that yf the lessee kyll. J. S. that then he shall haue fee symple although that he in this case performe the condicion, his estate is nothyng therby enlarged by cause the condicion is agaynste the lawe.

Also ye shall vnderstande that where an obligacion

Obligacyon.

lygation is endorsed with a cōdicion, the which is agaynst the lawe: both the oblygacion, and also the condicion be clerely voyde in the lawe.

Condycyons repugnant.

¶ Estates vpon condicions repugnante be as yf a feffement or a gyfte in tayle be made vpon condicion that the feffee, or donee, shall take no profyt or shall do no wast, and suche other lyke, suche condycyons be voyde and the state good and effectuall in the lawe notwithstandynge.

¶ Also if a lease be made for terme of life vpon condycion that he shall do no fealte, this is a voyde condition.

¶ Lykewyse it is yf a man that hath nothinge in the maner of Sale graunte the a rente charge goynge out of the same vppon condicions that his person shall not be charged, this graunt is good and the condicion voyde.

Condicions impossyble.

¶ Estates vpon condicyons impossyble be as yf a feffement be made vppon condicion that yf the feffee goeth not throughe the see on fote to Caleys in one day then it shalbe lawfull to the feffee to reentre, this is a frustrate & voyde condicion and yet the state is good.

¶ Lyke lawe is of a lease made for terme of yeres. &c. or an oblygacion with a condycion impossible, vt sup̄, the oblygacion, or lease in good and condicion voyde to all purposes.

¶ An acte howe straungers shal take auaūtage of condicions made. An. xxxii. H. viii.

IT is ennacted that as well the person which haue or shall haue any gyfte or graunte of the Kynge by his letters patentes, of any landes, personages, tytles, or other heredytamentes, or of any reuersion of the same whiche dyd belonge

belonge to any monastery or other ecclesiastical house dyssolued, or otherwyse comme into the kynges handes, syns the.iiii. day of Februarye in the.xxvii.yere of our soueraigne lorde kynge Henry the eyght, or whiche at any tyme hereto fore dyd belonge to any other person, and after came into the kinges handes, as also al other persons beynge grauntes or assygnes, to the kynge or to any other person, theyr heyres executours, successours, and assygnes, shal haue lyke auauntage agaynst the fermours, theyr executours, admynystratours and assygnes, by entrye for not payment of the rent, or for doynge wast or other forfayture, and also shall haue the same auauntage by action onely for not perfourmynge of other condicions couenaũtes or agrementes conteyned in the endenturs of their leases or grauntes against the said fermours, and graũtes, theyr executours, admynistratours, and assygnes, as the said lessours or graũtours thẽ selues myght haue had at any tyme. And againe mutually and on the other syde, the said fermours, & grauntes for terme of yeres, lyfe, or liues, their executours admynistratours, and assygnes shall haue lyke auauntage against them for any condicion couenaunt or agrement cõteyned in the said indenture as they myght haue had agaynst theyr saide leassours and grauntours theyr heyres and successours all benefites and aduaũtage of recoueries in value by reson of any warranty of dede or in lawe by voucher or otherwyse onely except.

¶ Prouyded that this acte shall not extende to charge any person for breche of any couenaunte or condicion comprysed in any suche wrytynge but for suche as shalbe broken and not perfor-

med

med after the fyrst daye of September in the .32. yere of kynge Henry the .viii. and not before.

¶ Lyuery of season, and atturnement.

Nal feoffementes, gyftes in tayle, leases for terme of life, or for terme of a nothers life of landes or tenemētes, ther can be no alteracion or transmutacyon of possession, by the auncyent lawes of thys realme, on lesse there be a certayne ceremonye adhybyted and solempnysed in the presence and syght of neyghbours or others, which ceremony is called lyuery of season.

The maner of lyuerye of season.

¶ And ye shal vnderstande, that this ceremony of lyuery season is done, whan the feoffour, donour, lessour, or theyr deputye come with the neyghbours solemplye to the landes or tenementes, and they put the feoffe, donee, or lesse in possession of the sayd landes, or tenementes, by deliueryng vnto hym a clodde of earth, or the ryng of the dore, or some other thynge in the name of season, and for this selfe cause this ceremonye of lawe is called lyuery of season, that is to say a tradicion or gyuynge of season.

Diuersyte betwene possession and season.

¶ But this ceremony is not requyred in lesses for terme of yeres or lesses of wyll, forasmuche as the lessour in suche case, remayneth styll seased, and the lessee hathe onely possession without the seasine, and therefore the termes of the lawe be, that suche a man is possessed, where as in feoffementes, gyftes in tayle, and leases for lyfe, he is called seased.

where

¶ Wherfore yf a feoffement or leafe for lyfe be made of landes, or tenementes, and before that the ſyuery of ſeaſyne be made, the feoffour dyeth the heire of the feoffour ſhal haue the landes, per ſummum ius, that is to ſay, by the rigour of the lawe, notwithſtanding, that the feffee hath paid to the feoffoure the pryce of the lande, and all thoughe the feffee be in poſſeſſyon. But otherwyſe it is of a leaſe for terme of yeres.

* Like ceremony is vſed, when rent charg rent ſeruice, rent in groſſe, auouſon in groſſe, a vyſlayne in groſſe, comon in groſſe, comon for beaſtes certaine, eſtouers, and ſuch other thynges as paſſe by way of graunt, be graunted for it is no full and perfite grant, tyl it be conſignat and ſeaſed as it were with the ceremony of attornement

¶ This attornment is nothing elſe, but when the tenaunt of the lande, of which the reuerſyon is graunted, or out of which a rent is graunted do make ſome euydent ſygnifycation and token that he accepteth the perſon of whom the graunt is made, to be in the ſame reſpecte vnto hym that the grauntour was. As for an example, yf the tenaunte of the lande, after he haue herde of the graunt commeth to the graunter, that is to wit, to the perſon to whom the graunte was made, and ſay in this wyſe, or in lyke effecte. Attornment.

¶ I agree me vnto the graunt made vnto you, by ſuch a man, or I am well apayde and contented of the grant, that ſuch a man hath made vnto you. But the moſt vſuall and frequent forme of attornment, is to ſay. Wyr I attorne vnto you by force of the ſayd grant, or I become your tenaunt, or to deliuer vnto the graunter a penye or a halfe peny, by waye of attornement. Howe attornment ſhall be made.

¶ If a man maketh fyrſt one graunt to one perſon, and after an other to an other perſon, that graunt ſhall ſtande, to whiche the tenaunt wyll atturne, all thoughe it be the latter graunt.

¶ And ye ſhall note, that yf a man be ſeaſed of a manour whiche is parcell in demeane, and parcell in ſeruyce, and doth alyene the ſame manour to an other, onleſſe the tenauntes of the manour do atturne, the ſeruyce ſhall not paſſe, onely tenauntes at wylle excepted, forit nedeth not to cauſe them to atturne.

Dyuerſytye,

¶ Note furthermore, there is great a dyfference b. twene giuynge a penye in the name of ſeaſine, and gyuyng by waye of atturnement, for when it is gyuen of the tenaunt to that graunt in the name of ſeaſyne, it doth not onely implye an atturnement, but alſo it giueth him ſuch a ſeaſine, that yf the rente afterwarde were behynde, and not payde, he may nowe vpon the ſeaſyne of the penye, after a lawfull dyſtreſſe taken, and after reſcous made, bringe an Aſſyſe of Nouel dyſeaſyne, where as yf it were gyuen onely by waye of atturnement, he coulde not bringe the Aſſiſe, but his wryt of reſcous onely.

Aſſyſe.

Wryt of Reſcous.

¶ Alſo ye ſhal vnderſtande, that where landes be deuiſable by teſtament, by the cuſtome of any auncyente borough or cytye, yf there the reuerſyon of any landes, be by teſtamente bequethed to a man in fee, and the teſtatoure which we call the dyuyſoure dyeth, the deuyſe that is to wyt, he to whome the deuyſe was made, hath forthewith the reuerſyon to hym, without further remonye of atturnement. Lykewyſe it is yf a man by teſtament, dothe bequeath a rent charge that he is ſeaſed of, or a rent ſeruyce, there nedeth

Atturnemente is not requiſyte.

deth none atturnement at all.

¶ If two ioyntenauntes be of lande, and the Lorde graunteth the seruices to an other, yf one of the ioyntenauntes atturneth, it is ynoughe. Fynally, yf a lease be made for terme of lyfe, the remaynder to an other in tayle, the remaynder ouer to the ryght heyre, of the tenaunt for terme of lyfe, yf in this case the tenaunte for terme of lyfe, wyl graunt his remainder in fee to another by his deede, this remaynder passeth forth with out any atturnement, for yf any atturnemente were requisyte, it shulde be made of the tenaunt for terme of lyfe, which in this case is the graun tour hym selfe. And in vaine it is that the graũtour shulde be inforsed to atturne syth an atturnement is adhybited and had to none other purpose, then to haue the consent and agremente of the partyculer tenaunt, to the intent that it may appere, that he hath notyce and knoweledge of this graunt, but here where as the pertyculer tenaunt hym selfe is the grauntoure, an atturnement were superfluous, and more then neded.

¶ Note furthermore, that where there is Lorde and tenaunt, and the tenaunt leasseth his tenementes to a woman for lyfe, the remaynder ouer in fee, the woman taketh a husbande and after the Lorde graunteth the seruyces. &c. to the husbande, in this case duryng the couerture the seruices be put in suspence. But if the wife die, lyuinge the husbande, the husbande and his heyres shall haue the rent of them in the remayndre. &c. And in this case there nedeth no atturnement by word, bicause the husband that ought to atturn accepteth the graunt of the seruyces, the whiche acceptaunce is one atturnement in the lawe.

Suspẽce

of

HYtherunto haue I bryfely touched and ouerrun the sundrye kyndes and formes of estates. Nowe for asmuch as there is no tenure, but hathe vnto it some seruice knit and annexed it were very necessarye to declare howe many kindes of seruices there be, and what seruyce is due to euery tenure. For the knowlege herof ye shal vnderstand, that the principal and most comon kind of seruice that the tenāt oweth to his lord, is called knightes seruyce

¶ Knyghtes seruyce.

KNightes seruyce includeth homage fealty and for the most part escuage & whosoeuer holdeth his landes by knightes seruice, is bounde by the law of this realme to do vnto his lord homage & fealte, and to pay for most part escuage, when it shalbe assessed by auctorite of parliamēt, as herafter more plainly shalbe declared.

Homage.

¶ Homage is the most humble and reuerent seruyce, that a man of free estate and condicion can do, for when the tenaunt shall do homage to his lord, the lord shal sit, and the tenaunt then knele before him, vpon both knees, holding his handes betwene the lordes handes, and say in this wise. I become your man from this day forwarde, of lyfe and of membre, and of earthly honoure, and to you shalbe faithful and true, and faith to you shall beare for the landes that I clayme to holde of you, sauynge the fayth that I beare vnto our soueraygne lorde the Kynge, and then the Lorde so syttynge, shall kysse hym. But yf an ecclesyastycal person, whiche by his ordres and profession

How the tenaunte shall doo homage.

and profession hath addicted hym selfe to the seruyce of God in spyrytuall, shall do homage to his Lorde, he shall say: I do you homage, and shal be to you faythfull and true, and faythe to you shall beare, for the tenementes that I holde of you, sauynge the fayth whiche I owe to our soueraygne Lorde the kynge.

What a religious person shal say when he dothe homage.

¶ Also when a womanne not maryed dothe homage to her Lorde, she shall not saye, I become your woman, for it is not conuenient that a woman shulde be the woman of any other then of her husbande that she shall marry, but shall saye euen as the ecclesyasticall person sayth: I do vn to you homage. &c.

What a woman shal saye.

¶ And yf perchaunce a manne holdeth sundrye landes and tenementes of sundrye Lordes, and euery of theym by knyghtes seruyce, then in the ende of his homage makynge, he shall saye, sauynge the faythe that I owe to our soueraygne Lorde the kynge, and to myne other Lordes.

¶ And none is bound to do homage to the lord, onles it be such a tenant as hath in the tenaunce an estate of fee symple, or fee tayle, eyther in his owne ryght, or in the ryght of an other.

¶ For yf a woman haue landes or tenementes in fee symple, or fee tayle, whiche she holdeth of her Lorde by knyghtes seruyce, and taketh an husbande, and haue yssue, in this case the husbande in the syfe of his wyfe, shal do the homage byeause he hath a tytle to haue the landes by the curtesye of Englande, yf he ouerlyueth her, and also he holdeth theym nowe in his wiues righe, yet before yssue hadde betwene them the homage shalbe made in bothe theyr names. But yf the womanne dyethe before any homage made in her

What tenaunte shall doo homage.

lyfe, by the huſbande, and the huſbande kepeth ſtyll the landes as tenaunte by the curteſy, nowe he ſhall not do homage to his Lorde, bycauſe he hath nowe an eſtate but for terme of lyfe.

Fealtye.

¶ Fealty is as muche to ſaye, as a fidelytye or faythfulneſſe. In doynge whereof the tenaunte ſhall holde his hande vppon a booke, and ſaye thus. Here you this my Lorde, I to you ſhalbe faythfull and true, and fayth to you ſhall beare for the landes and tenementes, whiche I clayme to holde of you, and duelye ſhall do you the cuſtome and ſeruyces whiche I owe to do you, at the termes aſſygned, as God helpe me and al his ſayntes. And then he ſhall kyſſe the booke, but he ſhall not knele as he that dothe homage, nor do ſuche humble or reuerent ſeruyce as is before declared in homage.

Howe a tenaunt ſhall do homage.

Diuerſite betwene homage and fealte

¶ And ye ſhall obſerue, that homage can not be done but to the Lorde hym ſelfe, where as the ſtewarde of the Lordes courte, or the Baylyfe may take fealtye for the Lorde. Alſo tenaunt for terme of lyfe, ſhall do fealtye, but homage as I ſayd, he can not do.

¶ Nowe as concernyng eſcuage, that is to ſay, the ſeruyce of the ſhyelde, ye ſhall underſtande that he that holdeth his landes by eſcuage, when the kyng maketh a vyage royall into Scotland for the ſubduynge of the Scottes, is bounde to be with the kynges Maieſtye by the ſpace of. xl. dayes, well and conuenyentlye arayed and appoynted for the warre. And he that holdeth his lande but by the moytye of the fee of knyghtes ſeruyce, is bounde by the force of his tenure to be with the kynge by the ſpace of. xx. dayes, and ſo

Eſcuage.

soo proporcyonablye accordynge to the rate and quantytye of his tenure.

¶ But nowe to our instytute and purpose, after this vyage ryall into Scotlande, in whiche the kynge goeth in person, and after the retyre into Englande agayne, a Parlyament is wont to be commoned, in which shalbe prescrybyd and assessed when euery persone that holde his lande by homage, and wente not with the kynge neyther by hym selfe, nor by his deputye, shall paye to his lorde in satysfaction of his not seruynge, and accordynge to the tarion hereof euerye tenaunte shall paye to his lorde immediate, whether it be the kynge, or other after the rate and porcyon of his tenure: yf he holdeth by an holden fee, he shall paye the hole escuage, yf by a moyetye, the halfe yf by the fourth parte of a fee the fourth part. &c. and this money thus assessed is called scrutage or escuage, for which the lorde to whom it is due, may verye well for the none payment thereof dystreyne.

Parlyamente.

Dystresse for escuage.

¶ But here it is to be noted, that some tenantes by custome vsed tyme out of mynde, are bounde to paye but the moyetye, or the thyrde parte of that whiche shalbe assessed and ympryted by acte of Parlyament.

¶ Yea, and the custome is in some place, that to what summe of money so euer escuage is assessed, the tenauntes shall paye neuer but suche a certayne summe of money and this kynde of escuage is called escuage certayne, that is to say where escuage is assessed by the Parlyament to a more or lesse summe, the tenaunt to paye to the lorde. v. s. and no more nor no lesse. &c. such a tenure is called sotage tenure, and not knyghtes

Escuage certayne.

seruyce, where as the other is called escuage vncertayne.

Escuage vncertayne.

¶ Fynallye ye shall vnderstande, that escuage vncerteyne is alwayes adiudged to be knyghtes seruyce, and draweth vnto it, warde maryage, and reliefe, but escuage certayne is no knightes seruyce, but is of the tenure of socage, as shalbe hereafter more amply shewed.

¶ Of warde mariage and reliefe

EVery knyghtes seruyce, draweth vnto it, warde maryage, and reliefe. Wherefore it is nowe ryght expedyent some what to entreate of theym.

¶ Ye shall therefore be admonyshed, that when the tenaunt whiche holdeth his lande by knightes seruyce dyeth, his heyre male beynge at that tyme within the age of .xxi. yeres, the Lorde shal haue the warde, that is to saye, the custodye or keppynge of the landes so holden of hym to his owne vse and profyt, tyll the heyre commeth to the full age of .xxi. yeres. For the lawe here presumeth, that tyll he come to this age, he is not able to do suche seruyce, as is of this tenure required. Furthermore yf suche heyres be vnmaryed at the tyme of the death of the tenant, then the Lorde shall haue also the warde and the bestowynge of the maryage of hym.

Warde.

Mariage

¶ But yf the tenaunt by knyghtes seruyce dyeth, his heyre female beynge of the age of .xiiii. yeares or aboue, then the Lorde shall haue the warde neither of the lande, ne yet of the bodye of such an heire, and the reason hereof is bycause a woman of that age, may haue a husbande able

The full age of a woman.

to do

to do knyghtes ſeruyce, that is to ſay, to warte vpon the kynges mateſties perſone when he auaunceth into Scotlande with his army royal.

☞ But yf ſuche an heyre female be within age of .14. yeres and not maryed at the tyme of the death of her auncestour, then the lorde ſhall haue the warde of the lande holden of hym, tyl ſuche heyre female commethe to the age of .xvi. yeres by force of an acte of parlyamente in the ſtatute of Weſtminſter the fyrſt. Capi.xxii.

¶ Note that there is a greate diuerſitie in the lawe betwene the ages of females and of males, for the female hathe theſe many ages appoynted by the lawe. Fyrſte, at.vii. yeres of age the lorde her father maye dyſtrayne his tenauntes for ayde to mary her. Seconde at.ix. yeres of age, ſhe is doable. Thyrdelye at.xii. yeres ſhe is able to aſſent to matrymonye. Fourthlye at.xiiii. yeres ſhe is able to haue her lande, and ſhall be out of warde yf ſhe be of this age at the death of her auncestour. Dyuerſitie of age. Age of a woman.

¶ Fyfthlye, at.xvi. yeres ſhe ſhall be out of warde, thoughe at the deathe of her auncestoure ſhe was within age of.xiiii. yeres.

Sythlye, at.xxi. yeres ſhe is able to make alienations of the landes or tenementes. Where as the man hath but two ages, the one at.xiiii. yeres to haue his landes holden in ſocage, and to aſſent to matrymonye, the other at.xxi. to make alienacions. The age of a man.

☞ Ye ſhal vnderſtande that by the ſtatute of Mertone, the fyrſt chapiter, it is enacted that yf in caſe the lorde do mary theyr warde to vyllaynes or others, where is diſpargemente, yf ſuche heyres ſo maryed be within the age of .xiiii.

yeres or of suche age that the sayde warde can nat consente to the maryage, then if the frendes of this heyre complayne and fele them selues greued with this vnmete maryage, the nexte of kynne to the heyre, vnto whom the heritage can not descende, may entre into the landes, and put out the lorde whiche is gardeyne in chiualry, and yf the nexte kynesman wyll not thus do, a nother kynesman of the infante may do it, and shall take the issue and profytes to the behouse and vse of the heyre, and shall yelde accomptes therof vnto him whan he cõmeth to his full age.

Accompte ȝyuynge.

☞ Also there be dyuers other dyspargementes, whiche be not expressed in the sayde statute, as yf the heyre beynge within age of consent, and in warde, be maryed to a decrepite person or crepill as to one that hath but one fote or one hande, or that is a dyssome creature, or hauynge any horyble disease or contynuall infyrmitie. All these and suche lyke be dispargementes. But here also ye shall vnderstande, that it shall be sayde no dispargement, onles the heyre be so maryed when he is within the age of discrection, that is to saye: within the age of.xiiii. yeres. For yf he be of that age or aboue and consenteth to suche maryage, it is no dispargement neyther shall the Lorde for suche maryage lose his warde, bycause it shall be reputed and assigned to the folye of the heyre beynge of age of discrection, to consent to suche maryage.

Dyuers dispargementes.

¶ Nowe yf the lorde, than beynge gardeyne offre to the heyre beynge in his warde a conuenyent maryage without dispargemente, and the heyre refuseth it, as he maye at his choyse and discretion very wel do, than the lorde shal haue the

value

value of the maryage of ſuch heyre whan he cometh to his full age. But yet yf he marye hym ſelfe beynge ſo inwarde agaynſt the wyll of his gardeyne, than he ſhall pay the double value by force of the ſtatute of Merto before remembred. Value of maryages

☞ And ye ſhall note, that yf landes holden by knyghtes ſeruyce deſcende to an infant or childe within age from his mother or from any of hys auncestours, his father beynge yet alyue, in this caſe the lorde ſhall not haue the maryage of hys heyre, for durynge the lyfe of the father, the ſon ſhalbe inwarde to no man. Double value of maryage. One ſhal not be warde lyenge his father.

¶ Fynally, it is to be knowne, that he whiche is gardeyne in thevalry in ryght, may after he hath ſealed the warde, graunte the ſame eyther by dede or without dede to another man and thā he to whom ſuche graunt is made is called gardeyne in fayte.

☞ Nowe as touchynge reliefe, ye ſhal knowe that yf a man holdeth his lande by knyghtes ſeruyce and dyeth his heyre beynge of full age (the full age of the male is. xxi. yeres, of the female. xiiii.) then the lorde of whom the lande is holden ſhall haue of the heyre relyefe. Relyefe.

¶ Note ye that all Erles Barons or any other the lynges tenauntes holdinge of him in chiefe by knyghtes ſeruyce dye, and at the tyme of hys deth his heyre be of full age, that is to ſaye. xxi. yeres, he ought to pay the olde relyefe for his heritaunce, that is the heyre or heyres of an Erle for an hole Erledome one hundreth pounde. The heyre or heyres of a Barone for an hole barony one hundreth markes. The heyre or heyres of a Knyght one hundreth ſhyllynges. he that hath leſſe, ſhall gyue leſſe accordynge to the olde fa-

stome of fees, lyke lawe is obserued of all other that holdeth of any other their lordes immedyate, vt supra.

¶ Also a man may holde landes of a lorde by two knyghtes fees, and then the heyre beynge of full age at the deth of his auncestours, shall paye to his lorde for relyefe .x. pounds.

¶ Seruyce of castell garder.

We shall vnderstande that a man may holde by knyghtes seruyce and yet not holde by escuage, nor shall paye no escuage, for he maye holde by castell garde, that is to saye: by seruyce to kepe a towre of his lordes castell, or some other place, vpon a reasonable warnynge, whan his lorde hereth that enemyes wyll come, or be all redy come into Englande.

A ground in the lawe.

¶ This seruyce is also knyghtes seruyce, and draweth to it warde maryage and relyefe, as in all cases the common knyghtes seruyce doth.

¶ Of graunde sergeantie.

There is also another kynde of knyghtes seruyce, whiche is called graunde sergeantie, that is where a man holdethe hys landes or tenemētes of ꝑ king by suche seruice as he oweth in ꝓper ꝑson to do, as to beare the baner of our soueraygne Lorde the kynge or his spere, or to conducte his hoste, or to be his marchall or to be the sewar, caruer, or butler, at the feall of the coronatiō, or to be one of the chāberlaynes of the receypt of hys esthequere, or to do lyke seruyces to the kynge in ꝓper ꝑsone

ſone, ſuche maner of ſeruyce I ſaye, is called graunde ſergeantie, that is to ſaye a greate or hygh ſeruyce, and the cauſe why it is ſo called is bycauſe it is the moſte honorable and moſte worthye ſeruyce that is, for the that holdethe by eſcuage is not appoynted by hys tenure to do any other more ſpecyall ſeruyce than another is bounde that holdeth by eſcuage, but he that holdeth by grande ſergeantie, is bounde to do ſome ſpecyall ſeruyce to the kynge.

The moſt highe ſeruyce.

☞ Alſo yf he that holdethe of the kynge by graunde ſergeantye dyeth, his heyre beynge of full age, than the heyre ſhall pay to the kyng for relyfe, not onely .L.s. as he that holdeth by eſcuage ſhall do, but moreouer the clere yerely value of thoſe landes and tenementes whiche he ſo holdeth of the kynge by graunde ſergeantye.

Relyfe of the tenãte by graũd ſergeantye

¶ Furthermore ye ſhall obſerue that in the marches of Scotlande ſome men holde of the kynge by cornage, that is to ſaye, by blowynge of an horne, to thyntent to warne the men of the contrey whan they heare that the Scottes or other theyr enemyes be comminge or be alredye entred into Englande whiche ſeruyce is alſo a kynde of grande ſergeantie.

Tenure by cornage.

¶ Graunde ſergeantye therfore is as muche to ſaye in Latyne, as magnum ſeruitium, that is to ſaye, a greate or hyghe ſeruyce, lyke as petite ſergeantye is called Paruum ſeruitium, that is to ſaye: a lytle or ſmale ſeruyce.

Diffinition of ſergeantye.

¶ But to reuerte agayne to the matter ye ſhall note yf any tenaunte holdeth of any other lorde than of ỹ kynge by ſuch ſeruyce of cornage, then it is no grande ſergeantie, but yet neuertheles it is knyghtes ſeruyce, and draweth to it warde ma-

Rule in the lawe.

ryage and relieke for this is a rule infallyble that none can holde by graunde sergeantye but of the kynges owne maiestye.

¶ Fynally ye shall vnderstande, that all they whithe holde of the kynge by this seruyce called graunde sergeantye, do holde of the kynge by knyghtes seruyce, and by vertue of this tenure the kynge shal haue of them warde maryage and relyefe, but escuage yet he shal not haue of them onles they holde by escuage of him by expresse and speciall wordes.

¶ Petite sergeauntie.

THenant by petite sergeantie is he that holdeth his land immediatly of our soueraygne lorde the kyng by this maner of seruice, to pay to the kynge yerely eyther a Bowe, a Spere, a Dagger, a payre of gauntlettes, a payre of Spores of Golde, a Shafte, or suche other small thinges appertayning to the war, and this seruyce is in effect but socage, bicause that such a tenaunte is not bound by his tenure to go ne do any thing in his owne proper persone touching the war, but onely to render and paye yerely certayne thynges to the kynge, as a man ought to pay a rent. Wherfore thys seruyce of petite sergeanty is no knyghtes seruyce but yet ye shall note, that a man can not holde neyther by petite sergeantye, neyther by graunde sergeantye, but of the kynge onely.

Petyte sergeauntye is socage in effecte.

¶ Homage auncestrell.

THenaunt by homage auncestrell is he which holdeth his lande of his lord by homage, & bothe he and his auncestours whose heyre

he

he is haue holden the same lande of the sayde Lorde and of his auncestours tyme out of minde by homage, and haue done vnto them homage, and this is called homage auncestrell, by reason of the longe contynaunce whiche hath bene by tytle of prescrypcyon, as well concernynge the tenaunsy in the bloude of the tenaunte, as concernynge the lordeshyppe in the Lorde. And this seruyce of homage auncestrell drawethe vnto it warrantye (that is to saye) yf the Lorde whiche is nowe in lyfe hathe onys receyued the homage of his tenaunte, he ought to warrante the same tenaunte, what tyme so euer he shalbe impleaded or sued for suche lande so holden of hym by homage auncestrell.

Warrēty by cause of homage auncestrell.

¶ Moreouer suche seruyce of homage auncestrell draweth to acquitall, that is to saye, the lorde ought to acquite the tenaunte agaynste all other lordes that can demaunde any maner of seruyce of the tenaunsye.

Acquitall

¶ Wherfore yf in this case the tenaunt which holdeth by homage auncestrell be impleaded of his landes, and vouched or calleth hys Lorde to warrantye, who commeth in by processe and demaundethe of the tenaunte what he hathe to hynde hym to the warrantye, and the tenaunte sheweth howe he and his auncestours, whose heyre he is, haue holden his landes of him and of his auncestours tyme out of mynde, surely the lorde yf he can not denye this and yf he hathe receyued the homage of such a tenaunte, is bounde by the lawe to warraunt hym his lande, so that yf the tenaunt lose his landes in defaute of the lorde thus vouched, that is to say, called to warrantie, he shall recouer agaynst him, so muche in

Voucher

value

value of thoſe landes and tenementes which the Lorde had at the tyme of callynge to warrantye or at any tyme after. But yf the lorde neuer receyued the homage of his tenaunt, then he maye very wel when he is thus vouched diſclayme in the lordſhyp or ſeignorye, and ſo put out the tenaunte of his warrantye. Where ye ſhall note that in euery caſe where the lorde dyſclayme in his ſeignorye in courte of recorde, his ſeignorye or lordſhyp is extincte, and the tenant ſhal holde frothenſeforthe of the nexte Lorde to hym that thus dyſclaymed.

Dyſclayme.

¶ Thus ye perceyue that homage auncеſtrell is not but where as is a longe contynaunce, as wel in the blode of the tenaunt in reſpecte of his tenaunсy, as in the blonde of the lorde in reſpect of his ſeignorye. Wherfore yf the tenaunt doth ones alyene his landes to another, although he purchaſe the ſame agayne, yet he ſhall not holde any longer by homage auncеſtrell, bycauſe of this diſcontinaunce, but ſhall holde it nowe by the vulgare and accuſtomed homage.

¶ Of lyueryes.

Tenaunt in chyefe of the kynge.

WHen one dieth which helde of ỹ kyng by the knyghtes ſeruice in capite, that is to ſay i chiefe, his heirs being within age, the kyng (as is before declared) ſhal haue the warde and cuſtodye alwell of the landes as of the body, that is to wyt the maryage yf he be vnmaryed. But yf the heyre be of full age at the tyme of the death of ſuch auncеſtour, yet ſhal the kynge by his prerogatyue royall haue prymer ſeaſyne of all the landes tenementes and other

Prymer ſeaſyne.

heredi-

hereditamentes wherefore ſuche his tenant was ſeſed in hys demene as of fe. And if ſuch an heire will entre into his landes when he cometh to his full age before he ſue his liuery and receiue ſeiſin by the king, no free hold ſhal accrewe nor growe vnto him, but he ſhalbe demed an intruder in the kinges poſſeſſion. Yea and yf he die ſo ſeyſed in the meane tyme, his wyfe ſhal haue no dower of ſuch landes, wherefore it behoueth in any wyſe that ſuch heire alwell male as female cõming to full age before he or the entre into their lande to ſue liuery. The maner and forme wherof accordyng to the acte of parlyament lately promulgated and ſet forth, I intende briefely to reherſe.

Intruder of the kynges poſſeſſiõ.

How heires ought to ſue their liueries, inacted. 33. Henrici. 8. Cap. 22.

No perſon or perſonnes, hauyng landes or tenementes, aboue the yerely value of. v. li. ſhal haue any liuery before inquiſytyon or office found before the eſchetour or other commyſſioner, by vertue of the kinges writ of diem clauſit extremum, or commiſſion directed out of the Chauncery, or other courtes hauynge authorytie to make ſuch writtes or commyſſions, whiche ſhall not paſſe oute of the ſame, but by warraunt or byl aſſygned and ſubſcribed by the mayſter of the wardes or lyueryes, the ſurueyour, attourney, and receyuour of the ſaide courte or. iii. ii. or one of them, to be directed and deliuered to the Chauncelour of Englande, or to any other

Writ of die clauſit extremum.

other Chaunceler, or offycer hauynge power to awarde suche writtes. And for the wrytyng and sealynge of the same, shalbe payde the accustomed fees But yf the landes excede not the sayde yerely value of. v. l. then they shall paye for the seale of euery suche wryt or commyssyon. vi. d. and for the wryting syxe pens, and not aboue.

¶ And the inquysytions and offyces here vppon founde, shalbe returned by the sayde eschetours or commyssyoners into the same Courte, frome whense the wrytte or commyssyon was awarded, whiche done, the clearkes of the petye bagge shall receyue the same offycers and make a transcripte thereof to the sayd Mayster of the wardes and lyueryes. And then the sayde mayster, and the surueyoure, atturney, and generall receyuour, or thre of them, wherefore the mayster or surueyour to be one, shall couenaunt and indent with suche persons for theyr lyuerye of the Castelles, Manours, Lordshyppes, landes, tenementes, and heredytamentes comprysed or not comprysed in suche offyces, and shall make and set the rate and pryce for the same, and appoynt the dayes of payment thereof by oblygacyon to be taken for the same to the kynge.

☞ And euery byll for any specyall or generall lyuery assygned by the handes of the sayde mayster surueyoure, atturney, receyuour, or thre of them wherof the mayster or surueyour to be one shalbe warraunt suffycyent to the lorde Chaunceloure, or any other offycer hauynge power to passe liueries vnder any of the kinges seales accordingly. In which case the clerkes of the petie bagge, or other clerkes, by whom the lyueryes be wrytten, shall receyue as wel for them selues as

for

foz other, such fees as hath ben accustomed.

¶ Item euery personne may sue at his pleasure a generall lyuerye foz any manours, landes, tenementes, rentes, reuersyons, remaynders, oz other heredytamentes, whereof the clere yerelye value shall not excede .xx.li. Pzouyded that an office be thereof founde and a warraunt fyrste obteyned of the sayde mayster, and others as is afozesayde. Generall lyuery.

¶ And where suche generall lyuerye is sued, yf the landes excede the yerelye value of. v.li. they shall paye foz the seale .xx.s.iiii.d. and all other fees accustomed as afterwarde shalbe declared. But yf they excede not the yerely value of. v.li. they shall pay but these fees folowynge, that is to saye, foz the seale of the lyuery .xii.d. To the clerkes of the petye bagge foz the wrytynge and the inroullynge xx.d. Foz the relyefe of the homage in the Hanaper eyght pens. To the Lozde great Chamberlayne, twenty pens. To the maysters of the Rolles twentye pens. And to the clerke of the lyuerye foz the warraunt and inroullynge of the lyuery, xx.d.

¶ Item no person oz persons shall pay in the chequer, oz any other courtes foz the relyefe of homage foz any landes oz heredytamentes not excedynge the yerelye value of .v. pounde, aboue eyght pens. And foz the entryng therof and warraunt of atturney aboue .iiii.d. Relyefe of homage.

☞ And the value of suche landes and heredytamentes not excedynge the yerely value of .xx. pounde shalbe taken as it is lumpted in the offices founden therof excepte by the examination and certificat of the sayde mayster surueyour, atturney, and receyuour, oz thre of them, it shall

others,

otherwyse appere, and be declared in any of the kynges courtes.

Peyne of forfeture. ¶ Also no eschetoure shall syt onely by vertue of his offyce for inquyrye of the tenure tytle or value of any landes or other hereditamentes holden of the kynge, beynge of the yerelye value of v li. or aboue, without the kynges wryt to hym dyrected vpon peyne to forfayte. v. li. for euery tyme he shall so do. Neyther shall he take for the fyndynge of any offyce of landes not excedynge the yerely value of. v. li. aboue. xv. s. that is to saye, vi. s. viii. d. for his owne fee, and. iii. s. iiii. d. for wrytynge of the offyce, and for the charges of the Jurye. iii. s. and for the offycers that shall receyue the offyces in any court of recorde. ii. s. vppon payne that the Eschetour doynge otherwyse, shall for euerye tyme forfayte v. li. And vpon lyke payne the offycers of euery courte of recorde, where suche inquisitions shal be returned, beynge offered vnto theym within one moneth nexte after the fyndynge therof shall receyue them. The one moytye of all which forfaytures to the kynge, and the other to the party that wyll sue for the same. &c.

Fees of an office.

¶ And they whiche hereafter shall be in case to sue lyuery, whose landes and tenementes excede not the yerely value of. v. li. may lawefully sue forth their general lyuery, by warrant had from the said court, as is aforsaid, althoughe none other inquisition be therof had, nor certified, payenge neuerthelesse the fees before remembred.

¶ Fynally, euery person shall sue forth his patent for his lyuery, within thre monethes nexte after the assygnement of his byll, or els his byll assygned, to be voyde and of none effecte.

Here-

¶ Here after ensueth the fees accustomed of ot the generall lyuerys.

Fyrste to the clerkes of the petye bagge, for the respecte of homage and fealtye, the wrytynge and inrouliynge. xliii. s. ii. d. To the lorde great Chamberlayne. xl. s. To the mayster of the Rolles. iii. li. To the clerkes of the lyuerys for wrytynge of the Indentures, and obligacyons. xx. s. beside counsell.

¶ The fees of the specyall lyuerye accustomed to be paide be these folowyng, that is to say, for the sygnet. iii. li. x. s. for the pryue seale. xxx. s. for the great seale. xlii. s. viii d. To the clerkes of the petye bagge. xl. s. To the mayster of the rolles clerke. xl. s. for the enrolmēt of the knowledge of the indentures. xii. s. To the lorde great Chamberlayne of Englande. xl. s. for the wryte of allowance for the same lyuery. x. s. vi. d.

¶ And note ye that sometyme in specyall cases the fees be more, and some tyme lesse, as the case and matter doth requyre.

¶ Hytherto haue we briefly touched all kindes of knyghtes seruyce, and thinges incident to the same. Now wyll we with lyke briefenes declare the other kyndes of seruyces, whiche commonly be comprysed vnder the generall name of socage. For euery lande, or tenementes, eyther it is holden by knyghtes seruyce, or elles it is of socage tenure, or at the leest waye of the nature of socage tenure, whiche in effecte is all one.

¶ Wherefore fyrste we shall deffyne what Socage is in the proper sygnyfycacyon, which done we shall perase the other kyndes of seruice whiche be of the nature of Socage tenure.

What ſocage tenure is.

Socage is properlye, where the tenant is bound to come with his ſocke, that is, with his plowe to care and towe parcel of the demeane landes of his Lorde, whiche ſeruice in auncient tyme was verye comon, but nowe by the mutual conſent, both of the Lorde and of the tenant it is conuerted for the moſt parte into a perelye rent. Howbeit the name of ſocage abydeth ſtyll. Wherefore nowe all that is not knyghtes ſeruyce is called by the name of Socage.

¶ So that yf a man holdeth by fealtye onelye, or by fealty and homage for all maner of ſeruyce it is but ſocage tenure, for homage alone maketh not knyghtes ſeruyce, yea yf a man holdeth by ſeruage certayne, as I haue ſayde herebefore, he holdeth in effecte but by ſocage.

¶ Now where a man holdeth his landes by ſocage and dieth, his heire beyng within the age of 14. yeres the Lorde ſhall not haue the warde, but the next of kin, to the heire to whom the heritage can not diſcende, ſhal haue the tytle and wardeſhip alwel of the landes as of the heire, tyll the heire come to the age of. 14. yeres, and ſuch tutor or gardeine is called garden in ſocage, and ſhall

Garden in ſocage.

rendre accomptes to the heire of the iſſues and profites that he hath receiued of the landes during ſuch tyme, deductinge his reaſonable coſtes and expences, ſo that he ſhall not haue the wardeſhyp to his owne vſe and profyt as the lorde whych is gardeyne in chyualry hath. And in caſe the gardeyne in Socage dyeth, before he hath made his accompte, the heyre is without remedye, bycauſe

no

no wryt of accompt lyeth against thexecutours, but for the kynge onely.

¶ Finally ye sl al vnderstand that whē tenant in socage dieth, the lord of whō the lande is hold shal haue reliefe, that is to say, the value of the rent that is yerely due vnto hym of the tenancy, besyde the yerely rent, so, that in effecte after the death of his tenant he shal haue of the heire two rentes, saue that for the relyefe he may distreyne forthwith, but for the accustomed rent he cā not distreyne tyll the vsual day of paiment be come. Reuert. Dystres.

¶ Franke almoyne.

Tenant in Francke almoyne that is to say, in free almes, is where a bishop, Deane, or any other ecclesiastic all person holdeth of his Lorde in pure and perpetuall almes, and suche tenure began fyrst in old tyme, after this maner What a man was seased in auncient time, of certaine landes or tenementes in his demeane as of fee, and of the same tenementes enfeoffed an Abbot, and his couent, or a prior and his couent, or any other person ecclesiasticall as a Deane of a colege, mayster of an Hospitall, or suche lyke to haue and to hold the same landes to them and to their successours for euer in pure and perpetual almes, or in francke almes, in these. ii. cases the tenementes, shuld be holden in francke almoine. The fyrst foūdacyō of franck almoyne.

¶ By force of whiche tenure they that holde in Francke almoyne, after this sorte be bounde of

right before god to make orysons and prayer to celebrate masses, and to do other diuine seruices for the soules of theyr graunters and ffeffees and for the soules of their heires which be dead, and for the prosperous estate of theyr heyres that be now alyue. And bycause of right they be bound to this dyuyne seruyce, they be discharged by the lawe to do any other prophane or corporall seruyce, as fealtye or suche other lyke.

Tenaunt in franke almoyne shall doo no fealte.

¶ But neuertheles yf suche as holde theyr tenementes in franke almoine do omit, and leaue vndone these diuyne seruyces wherunto they be bounde before God, the Lorde can not dystreyne them, nor yet compell them by any other meanes by the course of the common lawe, but the onely remedy is to complayne of theym to theyr ordynary, who of ryght ought to compell suche ecclesyastycall persones to do the dyuyne seruyce afore sayde.

Tenaunt by diuine seruyce.

¶ But here ye shall note that yf a person of a Churche, or any other ecclesyastycal person holdeth of his Lorde by certayne dyuyne seruyce to be done, as to synge masse euery Frydaye in the weke, or Placebo and dirige, or to synde a prist to synge masse, or to dystrybute in almes a hundreth pens, to a hundreth men at suche a day, in all theke cases yf such dyuyne seruyce be vndone the Lorde may very well dystreyne, bycause the seruyce is put here in certaynte.

Dystresse for diuine seruyce.

¶ Nowe I sayde, that yf in olde tyme a man did infeoffe such ecclesiasticall person after such sorte, he should holde his landes in franke almoyne, but at this daye it is otherwyse, for by the reson of a statute called. Quia emptores terrarum Westm. iii. Cap. 1. No man can alyen

g raunt

graunte landes, or tenementes, in fee symple to holde of him selfe, so that nowe yf a man beynge seased of landes in fee symple, grauntethe the same by lycence to an ecclesiasticall persone in francke almoyne, these wordes francke almoygne be voyde, and the ecclesiastical persone shall holde them immediatly of the Lorde of the feoffer by the same seruices that the feoffer held, so that no man can holde in francke almoyne, but by force of a graunte made before the sayde statute, onely the kynges maiestye excepted, for he is out of the compasse of the statute.

¶ Fynally, ye shall note that where as a man holdeth in francke almoyne, his lorde is bounde by the lawe to acquite hym of all maner of seruyce that any other lorde can haue or demaunde out of the sayde landes. Wryt of meane.

¶ That yf he dothe not acquite hym but suffre him to be distreined, than he shall haue agaynste his lorde a certayne wryt, called a wryt of meane & shall recouer agaynge hym his damage and costes of suyte.

¶ Of burgage.

A Tenure in borgage, is where an auncient borough is, of which the kynge is lorde and the whiche haue tenementes within the same brought holde the same of the kynge payenge a certayne yerely rent, which tenure in effecte is but socage tenure. Lykewyse it is, where as any other Lorde spiritual or temporal is Lorde of suche brought. Socage tenure.

☞ Here ye shall note that for the moste parte suche auncyent boroughes and townes haue dyuers customes and vsages whiche other townes Custome.

haue not. For some boroughes haue a custome that the yongest sonne shall inherite before the eldest, whiche custome is called commonly borought Englysshe.

Dower by custome.

¶ Also in some borough by the custome the woman shall haue for her dower all the landes and tenementes wherof her husbande was sealed at any tyme duryng the matrimony and couerture.

¶ Moreouer in some boroughes a man may bequeath and deuyse hys landes or tenementes by testament at the tyme of his deth, and by force of suche deuyse or legacy, he to whom the bequeste was made, after the deth of the testatour which made suche testament may be force of his auncient custome entre into the landes so to hym bequethed or deuised without any liuery of seasone to him made or further ceremonye of lawe.

Deuyse by custome of borough.

¶ Howbeit howe and in what maner a man shall at this daye deuyse his landes by his laste will and testamente by force of a certayne newe statute, it shalbe here after declared.

¶ Diuers other customes in Englande there be contrarye to the course of the common lawe, which yf they be any thynge prouable and maye stande with reason are good and effectuall, not withstandynge they be agaynst the common lawe. ¶ Fynd note that no customes is allowable but suche customes as hathe ben vsed by the tyme of prescripcion or tyme out of mynde.

¶ Of villenage or bounde seruyce.

A Tenaunt in villenage is properly whan a villayne, that is to saye, a bounde man hol deithe of his lorde, whose bonde man he

he fo certayne landes or tenementes accordynge to the custome of the Manoure, or otherwyse as the wyll of his Lordes and do to his Lorde vyllayne ſeruyce, as for to beare and to carye the donge of his Lorde out of the Cytye or out of the lordes Manoure, and to laye it vppon the demeane landes of his lorde, or ſo do luche lyke ſeruyce and vyllayne ſeruyce. Howe he it freemen in ſom: places holde theyr tenementes and landes of theyr lordes by custome, by luche ſorte of ſeruyce, and there tenure is called tenure in vyllenage, and yet they therm ſelues be no vyllaynes ne of ſeruyce condicion but freme. For the lande holden in vyllenaze make the not the tenaunt a vyllayne but contrarye wyſe a vyllayne maye make free lande to a vyllayne lande vnto his lorde. As yf a vyllayne purchaſethe lande in fee ſymple or in fee tayle, the Lorde of the vyllayne maye entre into the lande ſo purchaſed by his bondeman and put hym and his heyres out for euer, and this done, the lorde yf he wyll may leaſe the ſame lande to his vyllayne to holde of hym in vyllenage.

Howe ſom holde in vyllenaze and be no villaynes.

¶ And here ye ſhall vnderſtande, that ſeruytute or vyllenage is the ordynaunce, not of the lawe of nature but of that lawe, which is called Jus gentium, by which a man is made ſubiecte contrarye to nature, vnto another mans domynion. For he that is a vyllayne or boundman, eyther he is ſo by tytle of preſcripcion, that is to ſaye, he and his auncestours haue bene vyllaynes tyme out of mynde, or elles he is a vyllayne by his owne confeſſyon in courte of recorde, ſo that al vyllaynes eyther they be borne vyllaynes, or elles they be made ſo. They be

Diuiſiõ.

home vyllaynes whan they? father beynge a bonde man hym selfe begetteth them in lawfull wedlocke, eyther of a free woman or of a bonde woman, for so that the father be bounde, the yssue of hym lawfullye begotten muste nedes be bounde by the lawes of Englande, haynge no regarde to the condycyon of the mother, where as in the cyuyll lawe of the Romanes it is clene contrarye. For there, partus sequitur ventrem, that is to saye: the seruytute or bondage of the mother maketh the chylde bounde, and not the bondage of the father. Howe be it the bastarde son of a bondeman shall not be bounde, and the reason is bycause a bastarde is. Nullius filius, in the lawe, that is to saye no mans sonne.

Bastarde

¶ They be made bondemen or vyllaynes two wayes, eyther by they? owne proper acte, as whan a free person beynge of full age wyll come into a courte of recorde, and there confesse hym selfe bounde to another man.

☞ Or elles by the lawes of Armes called Jus gentium: as whan a man is taken prysoner in warres, and is compelled to serue and be come the thrall and bondeman of hym that toke hym, the lawe calleth suche person a vyllayne, that is to say, a slaue and thrall.

Diffinicion of villaynes.

¶ And ye shall note that vyllaynes be properly called in Latyn seruj, bycause that when they be taken in war, the Capteynes be wonte nat to kyll them, but to sell them, and so to saue they? lyues, so that they be called seruj a seruando, that is to saye of sauynge. They be also called Mancipia, a manu capiendo, bycause that they be taken by haudes power of they? enemyes.

☞ Nowe as I sayde by the lawes of natures

we

we are all borne free, but after that by the lawe of gentilitie, seruytute or bondage dyd presse and inuade the worlde, that ensued the benefyte of manumission. Manumission is quasy demanudacio, that is to say, a gyuynge out of the hande or power. For so longe as a man is in bondage and seruytude, he is subiecte to the hande and power of another, and whan he is manumissed he is made free and delyuered from the sayde power, so that a manumission is nothynge elles than an enfranchysemente. that is to saye, a wrytynge testifyenge that the Lorde hathe enfranchysed his vylayne and all hys of sprynge and sequell.

Manumission.

¶ Also yf the Lorde maketh to his bondeman an oblygacion of a certayne summe of money or graunteethe to hym by hys dede, an annuytye or yerely pensyon, or leaseth to him by dede landes or tenementes for terme of yeres, any of these actes do imply an enfranchysenent.

What actes maketh manumissiō in lawe.

☞ Lykewyse yf the Lorde makethe a feoffemente to his vyllayne, and maketh vnto him lyuery of seisin, this also is an enfranchimente and secrete manumyssyon. Bryefelye to speake, wheresoeuer the Lorde compelleth his vyllayne by the course of the lawe to do that thynge that he myght otherwyse enforce hym to do or to suffre without the auctorytye and compulsyon of the lawe, he dothe by implication enfranchise hys vyllayne, as yf the Lorde wyll brynge agaynste hys vyllayne an action of det, an action of accompt, of couenant or of trespace, these and suche lyke be in the eye of the lawe enfranchysementes and manumissions, bicause that the lorde in all these cases may haue the effecte and purpose

Cause of infraunchisement.

pose of his suite (that is to saye) the goodes ca-
telles and correction of his bondemen without
the compulsion of that lawe, euen by his owne
propre power and auctorytie whiche he hath v-
pon his vyllayne. But yf the lorde doth sue his
vyllayne by an appeale of felonye, the vyllaine
beynge lawfully endited of the same before this
is no racyte manumyssyon or infranchisement,
for the Lorde thoughe he haue power to beate
his vyllayne and to spoyle hym of his goodes,
yet he cannot by the lawe of thys realme put
hym to deathe.

☞ Ye shall also vnderstande, that yf a mans
bondeman purchased landes or acquyte and get
vnto him any other thynge the Lorde may forth
with entre, and cease the same into his owne
handes. Wherefore yf the lorde wyll brynge a-
gaynst his vyllayne a Precipe quod reddat, by
which he demaundeth against his vyllayne any
landes or tenementes, this implieth an infran-
chisemente, for asmuche as he byndeth hym selfe
to the prescript and auctorite of the lawe, wher-
as he myght vse his owne auctorytye, by en-
trynge and seasynge the sayde landes.

Diuisiō. ¶ Fynally ye shal marke that some vyllaynes
be called vyllaynes in grosse, and other some be
called villaines regardant. In grosse be they of
which the lorde is seuerally seased, & not by rea-
son of any lordshyp or maner, but they be called
regardant whiche do belonge to a manoure, or
which the lorde is seased, and the said villaynes
haue ben regardant, that is to say, expectant and
attendant tyme out of mynde, to the Lorde of
the sayde Manour in doynge vnto hym suche
seruyces as to a vyllayne appertayne.

Vylleyne in grosse.

Vyllaine regardāt.

¶ Of auncient demeane.

There is also a certayne kynde of tenure which is called auncient demene, and that tenauntes whiche holde by this seruyce be free holders and holde by charter and not by copy of courte roll, or by the verge after the custome of the manour at the wyl of the lorde. And these tenauntes be suche as holde of those Manoures whiche were sayne Edwardes the kyng, or which were in the handes of kyng William the conquerer, and these Manours be called the auncient demeines of the kynge or the auncient demeines of the crowne of Englande. And to suche tenauntes whiche holde of suche manours be many and dyuers liberties gyuen and graunted by the lawe, as to be quyte of tolle and passage and suche like impositions which be demaūded of men for their goods and catelles solde or bought in fayres and marketes by the, also to be quite and free of tares and tallage graunted by parlyament, except that the kynges maiestye do tare auncient demene (as to hi ones appertaineth whan he thynketh good for greate and vrgent) consyderations. Tenauntes also of auncient demeane ought to be quyt of paimentes to their patentes and charges of the knyghtes which came to the parlyament, also they ought not to be impanelled or put in iuryes and inquestes in the country out of theyr manour or seignorye of auncient demeane for the landes whiche they holde of suche manour, onles they haue other landes by the common lawe for which they ought to be charged. And yf suche tenauntes or any of them

whiche

Wryt of monstraverunt.

whiche holde of the Manour of auncient demeane be distrayned to do vnto theyr Lorde other seruyces or customes then they or theyr auncestoures haue vsed to do, then maye they sue a certayne wryt called Monstraverunt directed to the lorde commaundynge hym that he dystrayne them not for to do other seruyces or customes then they haue ben accustomed to do.

¶ And for further knowlege herof ye shall vnderstande that in the Exchetour there is a boke called Domesdaye whiche boke was made in the tyme of the sayde sayncte Edwarde. And all the landes whiche were in the kynges and in the handes of the said saint Edwarde at ye tyme of the makinge of the sayde boke be auncient demene. But the landes which then were in other mens handes thoughe they be wryten in the sayd boke, be frankfee and no auncient demene.

Frankfee.

¶ Fynally it is to be noted, that tenauntes of auncient demene shall not be impleded for theyr sayde landes out of the manour wherof they be holde, and yf they be, they maye shewe the matter and abate the wryte. But yf they ones answere to the wryte, and iudgement geuen, then the landes haue loste the nature and priuylege of auncient demene and are become frankfee, that is to saye, pleadable at the comon lawe for euermore, and this haue we spoken of the diuersite of tenures.

Abatemēt of the wryte.

¶ Of rentes.

FOr almoche as vppon euery tenure there is comonly reserued one rent or other, therefore I thynke it good sone what to speke of rentes. But ye muste vnderstande that there

be

be sundry sortes of rentes. There is one kynde of rente, whiche is called rent seruyce. An other which is called rent charge, and the thyrde whiche is named in Frenche, rente lecke, that is to say in Latine, redditus siccus, a dyre rent. Now rent seruyce is so called, bycause it is knytte to the tenure, and is as it were a seruyce, whereby a manne holdeth his landes or tenementes, or at the least way when the rentes vnseuerably coupled and knyt with the seruyce, as for an example, where the tenaunte holdeth his lande of the kyng or of any other lorde by fealty, and by certayne rent or by homage, fealtye, and certayne rente or by any other sortes of seruyces, and by certaine rent this rent is called rent seruice. And here ye shall note that yf this rente seruyce at any tyme when it ought to be payde, be behynde and vnpayde, the Lorde of whom the lande or tenementes so holden, whether it be in fee symple, fee tayle, or for terme of lyfe, for yeres or at wyl, by way of common right entre and dystreyne for the rente, thoughe there be no mencyon at all, ne clause of distresse purin the dede or leale, I said before that the nature of this rent seruyce is to be coupled and knytte to the tenure. For where no tenure is, there can be no rente seruyce. And therefore, yf at this daye I be seysed of landes in fee symple, and make a dede of feoffment of the same to an other in fee symple, reseruynge by the same dede a rente, this can be called no rente seruyce, bycause there can be nowe no tenure betwene the feoffoure and the feffee. Otherwyse it is of feoffementes in fee symple, made before the statute of Westmynster the thyrde Chap. i. called Quia emptores terrarum. For before the makynge

Dyuysyon of rente seruyce.

Dystresse of cõmon ryght.

kyng of that ſtatute, yf a man had made a feoffe-
ment in fee ſymple, reſeruynge to hym a certaine
rent, yet thought it had ben without deede here
hadde ben begonne and created a newe tenure be-
twene the feoffour, and the feffee, and the feffee
ſhulde haue holden of the feoffour, who by ver-
tue of the ſame, myght of common ryght haue di-
ſtreyned for ſuche rent. But at this day by force
of the ſayde acte, there can be no ſuche holdynge
of tenure created or begonne, and conſequente-
lye no rent ſeruyce, can be at this daye reſerued
vpon any gyfte in fee ſymple, excepte it be in the
kynges caſe, who beinge cheefe lorde of al, euer
might and may gyue landes to be holden of him
Thus ye ſe, that at this dare, no ſubiect can re-
ſerue any rente ſeruyce vnto hym onleſſe the re-
uercyon of the landes or tenementes that he ſhal
graunte, be ſtyll in hym, as where he grauntеth
them in fee tayle, or maketh but a leaſe for terme
of lyfe, or for certayne yeres, or els at wyll. For
in all theſe caſes the reuercyon of the fee ſymple
remayneth ſtyll in hym, and therefore yf here be
any rente reſerued, it is to be called a rente ſer-
uyce, and is of common ryght diſtraynable all
though there be no clauſe of diſtreſſe in the dede
of feoffment or leaſe.

¶ But here ye wyll aſke me, when in the caſe
before remembred, a manne at this daye gyueth
cleane awaye the lande or tenemente from hym
ſelfe in fee ſymple, ſo that there is no manner of
reuerſyon of the ſame, remaynynge in hym at al,
and yet neuertheleſſe reſerueth vnto hym by his
dede a certayne rent, what maner rent ſhall this
be called? I anſwere, yf there be in the deede in-
dented any clauſe of diſtreſſe, that is, that yf the

rent

rent be behynde vnpayde, it shalbe lawefull for the feoffour to entre and to distreyne, it is called a rent charge, for as muche as the lande is charged therwith, but howe of common ryght no, but onely by vertue and force of the wrytynge. Rente charge.

But on the other syde, yf there be no suche clause of dystresse put in the Indenture, then the rent so reserued, shalbe called a rent seke. Rente seke.

Likewise, if a man that is seased of certayne landes, wyll graunt eyther by Indenture, or by his dede polle, that is to saye, syngle and not indented, a yerely rent out of the same landes, to an other whether it be in fee symple, fee tayle, or for terme of lyfe, for yeres or at wyl, with clause of dystresse, then this rent is called rent charge and he to whom suche rent is graunted, may for defaute of payment therof, entre and dystreyne

But contrarywise yf the graunt be made without any such clause of dystresse, it is called rent seke that is to saye, a dyre rente, because he can not come to it in case it be denyed, by waye of dystresse, in so muche that yf he were neuer seysed of it, he is by the course of the comon lawe without remedy. Otherwyse it is of a rent charge, for here he to whom the graunt is made, where the rent is behynde, may chose whether he wyll sue a wrytte of annuitie agaynst the graunteour or dystreyne for the rente behynde, and certayne the dystresse tyll tyme he be payde accordyngly. Annuite.

But he can not haue bothe remedyes togyther, but must take hym to the one, for yf he ones recouer by a Wrytte of annuite then is the lande discharged. And yf he sue not his wrytte of annuyte, but dystreyne for the arrerages, and the tenaunt sueth a repleuin, where vppon the other Repleuin

Estopell. auoweth the takyng of the dystresse in the court of recorde: then is the lande charged and the person of the grauntoure dyscharged of the actyon of annuytye.

¶ Ye shall also vnderstande, that yf a man wyl that an other shall haue a rent charge commyng out of his lande, and yet wyl not that this person shall by any meanes charged by Mryt of annuytye, he may then haue such clause in the ende of his dede. Prouiso quod presens scriptum, nec quicquam in eo contentum vllo pacto se extendat ad onerandam personam meam per breue seu actionem de annuitate, sed tantummodo valeat ad onerandum, terras, fundos et tenementa mea de annuo redditu predicto. If this or suche lyke clause be added, then the lande is charged, and the person of the grauntour is dyscharged.

Prouiso

¶ Also if a man wyll make a dede of graunt in this wise, that yf J. at Style be not yerely paid at the feaste of Chrystmas, for terme of his lyfe. xx. s. sterlynge, that then it shalbe lawful for the sayde John at Style, to dystreyne for it, in the manour of Dale, this is is a good rente charge, bycause the manour is charged with the rent by way of distresse, and yet neuertheles in this case the person of hym that made suche dede, is dyscharged of any action of annuytye for asmuche as he graunted not by his dede any annuytye to the sayde John at Style, but onelye graunted that he myght dystreyne for suche yerely rent.

¶ Furthermore ye shall note, that yf a manne hath a rente charge to him and to his heyres commynge oute of certayne landes, and do the purchase any parcell of this lande to hym and to his heyres, in this case the hole rent charge is quen-

ched

quenched and gone, and the annuytye also, the cause is this, that a rente charge can not be in suche case apportioned. Otherwyse it is of a rente seruyce, as for example, yf one which hath a rent seruyce, of .xx. d. by yere dothe purchase parcell of the lande oute of whiche thys yerelye rente of .xx. d. is commynge this shall not extynguysh nor drowne the hole rent, but for that parcell onely. For rente seruyce in suche case maye verye well be apportyoned and rated accordynge to the value of the lande. Yet there be fortes of rentes seruyces whiche in no wyse can be apportyoned. As where a tenaunte holdethe his lande of his Lorde by the seruyce to rendre to his Lorde yerely at suche a feast, an horse, a rynge of golde, a redde rose, a gylouer, or suche lyke, yf in this case the lorde doth purchase parcell of the lande thus of hym holden, this seruyce is gone, bycause suche seruyce, can not be seuered nor apportyoned. All escuage is a seruyce that may verye well be apportyoned accordynge to the afferaunce and rate of the lande.

Extynguismēt.

Rente seruice cā not be apportioned.

¶ But where any lande is holden by homage and fealtie, yf the lorde purchasethe parcell of the lande; yet he shall haue his homage and fealtie styll of his tenaunte.

¶ Ye shall marke also, that yf a man makethe a lease of landes to another for terme of lyfe, reseruynge to hym certayne rent yf in this case he grauntethe that rente to John at Style sauynge to hym selfe the reuersyon of the sayde lande, this rente is but rent secke, bycause John at Style that hath the rente, hath nothynge in reuersyon of the lande.

But yf he graunteth the reuersyon of the lande

Attorny mente.

to John at Noke for terme of lyfe and the tenaunte atturnethe accordyngly, then hathe John at Noke the rent as rent i truyce becaule he hath the reuerlyon for terme of lyfe.

¶ Lykewyfe it is, yf a man gyueth landes or tenementes in tayle, reſeruynge to hym and to his heyres certayne rent, or makethe a leaſe of the lande for terme of lyfe, reſeruynge certayne rente, yf he graunteth the reuerſyon to another and the tenaunte atturnethe accordyngly, the hole rent and ſeruyce ſhall paſſe by this worde reuerſion, becauſe the rent and ſeruyce in ſuche caſe be incident to the reuerſion and to paſſe by the graunt of the reuerſion. But if he had graunted the rent onely, the reuerſion had not paſſed.

Rente is incidēt in a reuertion.

¶ What remedye a man hath to recouer his rent when it is behynde.

Shewed you before, that for a rent ſeruice if it be behynde ye may diſtraine in ꝑ grouſde euen of cōmon ryght though there be no ſuche clauſe of diſtreſſe mencyoned in the dede of frofſement graūt or leaſe. Alſo for rent charge ye may diſtrine or bryng your wryt of annuitie at your choiſe election, as before is declared. But of a rent ſeke if ye were neuer ſeiſed of it nor of any parcell therof, ye be without remedy by courſe of the common lawe, for ye can not diſtraine for it, nor yet bryngе your wryt of annuitie but yf ye were ones ſeiſed of it or of parcell therof & it is vnſtoned behynde, then your remedy ſhalbe this.

Ye

Ye muste eyther by your selfe or by youre debyte to the lande or tenement out of whiche the rent is commynge and there demaunde the arrerages of the rente, whiche yf the tenaunte denye to pay, this denyall is disseisin of the rent. Also yf the tenaunt be not then ready to pay it, thin counteruayleth a denyall whiche is a dysseysin. Moreouer yf neyther the tenaunte nor none other man be remaynynge vppon the grounde to paye the rente, when ye demaunde the arrerages, this also is a denyall in the lawe, and is in very dede a disseisyn. And of these dysseysynes ye may haue an assise of Nouel dysseisyn agaynst the tenaunt, and shal recouer seisin of the rent and the arrerages and your damages and costes of your wrytte and of your plee. And yf after suche recouerye and execution had, the rent be agayne at another tyme denyed you, then ye maye haue redisseisyn and shall recouer youre double damage. &c.

Disseisin of rent seeke.

Assise.

Iuredisseisi double damages.

¶ It shalbe therfore wysdome for a man when a rente is graunted by any person vnto hym, to take of the tenaunt of the lande a peny or an halpenye in the name of seisin of the rent, and then yf at the next day of payment the rent be denyed hym, he may haue an. Assise of nouell disseisin.

¶ And ye shall note, that there be thre causes of disseisin of rente seruyce, that is to wytte reliefe, repleuyn, and incloser. Relcoule is when the lorde vpon the lande holden of hym dystrayneth for his rente behynde, and the dystresse be relcoued from hym, or yf the lorde come vpon the lande and wyll dystrayne, and the tenaunte or any other man for hym wyll not suffre hym, this is called Relcoule.

The causes of disseisin of rente seruyce.

Relcous

Repleuin

¶ Repleuyn is, when the lorde hath diſtrained and repleuyn is made of the diſtres by wrpt or by playnte. Encloſer is where landes or tenementes be ſo incloſed, that the Lordes can not come within the landes or tenementes for to diſtrayne. And the chiefe cauſe why ſuche thynges ſo made be diſſeiſin to the lorde is for aſmuch as the lorde is by this waye diſturbed of the meane and remedy wherby he ought to come and haue his rente, that is to wyt, by diſtres.

Encloſer

☞ And there be foure cauſes of dyſſeiſyn of a rente charge, that is to wyt, reſcous repleuin encloſer, & denyer. For denier or denial is aſwel a diſſeiſin of a rent charge as it is of rent ſecke.

Foure cauſes of diſſeiſyn of rente charge.

☞ Fynally ye ſhal vnderſtande, that there be two cauſes of dyſſeiſyn of a rente ſecke, that is denyall and encloſer,

And two of rente ſecke.

¶ And it ſemeth that there is yet another cauſe of dyſſeiſyn of all the thre rentes aforeſayde, that is to wyt this, when the Lorde commethe to the lande holden of him, or when he that hath a rente charge or a rent ſecke cometh to the lande to diſtrayne for the rent behynde, and the tenant hearynge this, entreateth hym, and forſtalleth hym the waye with force and armes and manaceth him in ſuche ſorte as he dare not come to the grounde for to diſtrayne for his rente behynde for feare of death or mutilatyon of his membres: that is a dyſſeiſyn by cauſe the partye is diſturbed of his meane and lawfull remedy thereby, he ought to come to his rente.

Acte of p̄liamente executours.

¶ Fynally ye ſhall obſerue and marke, that by an acte of parliament made in the .xxvii. yere of our late ſouerayne lord kyng Henry the. viii. it is lawfull for the executours and adminiſtratours

tours

tours of tenauntes in fee symple, tenauntes in fee tayle, tenauntes for terme of lyfe, or rent seruyce, rent charge, rent seeke, and of fee fermes, for arrerages of suche rentes as were due vnto theyr testatours in theyr lyues, eyther to distrein for the same or at theyr election to bryng an action of Dette, except in suche lordeshyppes in Wales or in the marches therof, where as the tenauntes haue vsed tyme out of mynde, to paye vnto euery Lorde at his fyrst entry into the lordshyppe any summe of money for the redemption of all maner dutyes and penaltyes incurred at any tyme before theyr Lordes entry.

Dystresse or actiõs of Dette.

¶ Also by force of the sayde acte, the husbande which was seysed in the ryght of his wyfe may after the death of his wyfe, eyther dystreyne or bryng an action of det for the arrerages of suche rentes as were due and vnpayde in her lyfe.

¶ Lykewyse it is of hym that hath a rente for terme of an other mans lyfe, yf he for terme of whose lyfe he hath the rent dieth, yet by vertu of the sayde acte, he or his executours and administratours may entre and distreine or bring an action of det for the arrerages due before the death of hym for terme of whose lyfe he had the rent.

¶ Howe auowtyes ought to be made of rentes and seruyce, inacted. Anno. 21. H. 8.

WHere any landes be holden of any person by rentes, customes, or seruyces, yf the Lorde dystreyne vpon the same landes for any suche rentes, customes, and seruices, and Repleuin therof be sued, the Lorde may auowe or his baylyffe or seruaunt, may make co-

ayſance or iuſtifye the takynge vppon the ſame landes, as within his fee and ſygnory, alleginge in the ſayde auowry, conyſaunce, or iuſtificacyon, the ſame landes to be holden of hym without takyng any perſon certayne to be tenaunte of the ſame, and without makynge any auowry, iuſtifycacyon, or conyſaunce vppon any perſon certayne. And lykewyſe vpon euery writ ſued of the ſeconde delyuerance. And they that make any ſuche auowry, iuſtification, or conyſaunce, yf the ſame auowry, conyſaunce, or iuſtificacion be founde for them, or the playntyfe by nonſute or otherwyſe barred, then they ſhal recouer theyr hole damages and coſtes.

Seconde delyuerance.

¶ Alſo the ſayde plaintyfes and defendauntes ſhal haue lyke pleas, and like ayde prayers (pleas of diſclaymer onely excepte) as they myght haue had before the makynge of this acte.

Damages.

Alſo ſuche perſons as by the common lawe may ioyne to the playntyfe or defendant in the ſayde writtes of Replegiare, or ſeconde delyuerance as well without proteſte as by proteſte, ſhal from henceforth. Alſo in this caſe ioyne vnto them as well without proteſte, as by proteſte, and haue lyke places, and lyke auauntages in al thinges, (diſclaymer onely excepte) as they myghte haue by the common lawe before this acte.

Pleas to auowrie.

¶ An acte for the aſſuraunce of fermoures, made. An. xxxiii. Henrici. viii.

ALl leaſes hereafter to be made of any landes or other hereditamentes by writynge indented vnder ſeale for terme of yeares, or for terme of lyfe by any perſonnes beynge of the

the age of.xxi.yeres hauinge any state of inherytaunce eyther in fee symple, or fee tayle, in theyr owne right or in the ryght of their Churches or wiues, or ioyntly with theyr wyues shalbe good and effectuall agaynst the lessours theyr wyues heyres and successours, accordynge to the estate comprysed in suche indenture of lease.

Surrender of the old lease.

Prouyded, that this acte shall neyther extende to any leases to be made of any landes, hereditamentes, beynge in the handes of any fermour by vertue of any olde lease, onles the same olde lease be expired, surrendred, or ended within one yeare after the makynge of the newe lease, nor yet to any graunt to be made of the reuersion of any landes, or hereditamentes, nor to any lease of suche landes or hereditamentes as haue not commonly benne letten to ferme by the space of.xx. yeres nexte before suche lease therof made, nor to any lease to be made withoute impeachement of waste, nor to any lease to be made aboue the nombre of.xxi. yeres or the lynes as the most from the day of makynge therof. And that vpon suche lease be reserued yerely durynge the same due and payable to the lessours, theyr heires and successours, to whome the landes shoulde haue come after the deathe of the lessoures, and to whom the reuersyon therof shal pertayne accordynge to theyr estates and interestes, so muche yerely rent or more, as hath ben accustomably yeldyng for the same, within twenty yeres next before suche leases, and that he to whom the reuersyon therof shal pertayne after the death of suche lessours to theyr heyres: shall haue suche lyke remedye and aduauntage agaynst the fermours therof their executours & assignes as the

The wife shall be partye to the lease.

lessour hym selfe shulde haue had.

¶ Prouided also that the wyfe be made partie to euery suche lease as shalbe made by her husbande of any landes, beynge in the inheritaunce of the wyfe, and that euery suche lease be made by Indenture in the name of the husbande and his wyfe, and she to seale therunto. And that the rente be reserued to the husbande and wyfe, and to the heyres of the wyfe accordynge to her state of inherytaunce therein. And that the husbande shall in no wyse alyene, dyscharge, graunt, gyue awaye the same rent reserued, nor any part therof longer then durynge the couerture, withoute it be by fyne leuyed by the sayde husbande and wyfe.

☞ Prouyded furthermore, that this acte extende not to gyue lyberty or power to any persons, to haue any mo fermes, leases, or takynge of any landes, or other heredytamentes, then they myght haue done, before the makyng of this acte, nor yet extende to gyue any lybertye, to any Person or Vycare of any churche or vycarage, for to make any lease, or graunte, of any theyr messuages, landes, tenementes, tythes, profytes, or heredytamentes, belongynge to theyr Churches or vycarages, otherwyse then they myghte haue done, before the makynge hereof. An. xxxii. Henrici. viii.

What graunte by a corporacyon is good.

☞ It is furthermore enacted, that the graunt lease, gyfte, or election of the gouernour, or ruler of any hospytal, college, deanry, or other corporacyon with thassent of the more part of such of the same as haue voyce thereunto, shalbe good and effectuall, any rule or statute made by any foundour to the contrary notwithstandynge.

of

¶ Of failyeyng of recouerys by fermours inacted. Anno.xxi. Henrici.viii.

All fermours or lesses for terme of yeres, may failyeye for theyr terme onelye, recouerys hadde by fayned tytles, as wel as a tenaunt of free holde. And the same fermours theyr executours and assygnes shall enioye theyr sayde fermes accordynge to theyr leases agaynst suche recouerys, euen as yf none suche had be suffered. In whiche case neuertheles the recouerer, after suche recouery hadde, shall haue lyke remedy against the fermours by auowry, or action of Dette, for rentes and seruyces reserued vpon the same lesses, beynge due afore the same recouerys, and lyke actions for Waste done after the same recouerys, as the lessoures myghte haue had, yf no suche recouery had be had. Furthermore no statute estaple, statute marchaunte, nor execucyon by Elegit shalbe auoyded by any suche feyned recouerye, but lyke remedy shall be hadde to auoyde and failyeye the sayde recouerys, as is ordeyned for the fermoure or lesse for terme of yeres. Auowrye of action of Det.

¶ Of tythes, and howe they shalbe recouered, inacted. Anno, 32. Henrici. 8.

All persons shall truely pay theyr tythes and offrynges accordinge to the laweful customes and vsages of parisshes and places where such tythes or duties be due. And yf they do wylfullye withholde any parell of them: the party whether he be ecclesiastical

cleſiaſticall or laye that ſhulde haue theym, may conuent ſuche perſons before the ordynarye his commiſſary or other competent miniſtre or iudge of the place where ſuche wronge ſhalbe done, according to the eccleſiaſtical lawes. And in euery ſuche cauſe of ſuyte, the ſame Ordynarye or Iudge, hauynge the partyes or theyr procuratours before hym, ſhal proceede to the determinacyon thereof, ordynarylye or ſummarylye accordyng to the courſe of the ſayde lawes, and there vpon ſhall gyue ſentence accordynge.

¶ And in caſe any of the partyes for any matter concernynge that ſuyte, do appeale from the ſentence and diffinitiue iudgement of the ſayde iudge, then the ſame iudge forthwith vppon appellacyon made, ſhall adiudge to the other party the reaſonable coſtes of his ſuyte, and ſhal compell the ſame partye appellaunt to pay the ſame by compulſarye proceſſe cenſure of the ſayde lawes, takynge ſuerte of the other party to whom ſuche coſtes ſhalbe adiudged to reſtore the ſame to the appellaunt, yf afterwarde, the principall cauſe of that ſuyte of appeale ſhalbe adiudged agaynſt hym. And ſo euery iudge eccleſiaſticall ſhall iudge coſtes to the other partye vppon euery appeale to be made in any ſuyte or cauſe of ſubtraction, or detencyon of any tythes or offrynges, or in any other ſuyte to be made concernynge the dutye of ſuche tythes, or offrynges. And yf any perſons after ſuche ſentence gyuen agaynſte theym ſhall obſtynately refuſe to paye theyr tythes or dutyes or ſuche ſommes of money ſo adiudged wherin they be condemned, then two Iuſtices of the peace of the ſame ſhyre whereof one to be of the Quorum, ſhall vppon certifi-

Suerty.

Iuſtyces of peace.

cat

cat or complaynte to them made in wrytynge by the iudge that gaue the sentence, cause them to be attached and committed to the next Jayle, there to remayne without bayle or mayneprise, tyll they shall haue founde sufficient suretyes to be bound by recognisaunce or other wyse before the same Justices to the kynges vse, for the performaunce of the sayde iudgement.

¶ Prouided that no person shalbe sued or otherwise compelled to pay any tithes for any landes tenementes, or hereditamentes, whiche by the lawes of this realme are discharged or not chargeable with the payment of any suche tythes.

¶ Also this acte shall in no wyse bynde the inhabytantes of London and the subbarbes of the same, to pay theyr tythes and offerynges within the same Cytye and subbarbes, otherwyse then they shulde haue done before.

¶ Furthermore yf any hauinge an inheritance freholde, terme or interest in any personage, vicarage, portion, pencion, tithes, oblations, or other ecclesiasticall profyt, made or to be made temporall or admytted to be in temporal handes by the lawes or statutes of this realme, be dysseised or otherwyse put from the same, by any other person claymyng to haue interest therin: the person so dysseysed or wrongefully put from his sayde right or possession, his heires, wife, and other to whom such wrong shalbe done, may haue remedye, in the kinges temporall courtes, as the case shall require for the recouery thereof by wrytte original of Precipe q̄ reddat, assise of nouel disseisyn, Mordauncestor. Quod ei deforciat, writtes of dower, or other wryttes original to be graunted in the Chauncerye of euery suche personage

vicarage

vycarage, portion, pention, or other profyte ecclesiastycall accordinge to the nature of the sute therof. And wrytes of couenant, and other writtes for fines to be leuied, and al other assurances to be made of any such personage, or profit ecclesiastical, shalbe deuised and graunted there, lyke as hath ben vsed for fynes to be leuied and assurance to be had of landes, or other heredytamentes, and all iudgementes gyuen vpon such writtes originall, grauntes for any the premysses, and all fynes leuyed and knowleged in any of the kynges saide courtes thereof, shalbe of lyke force, as iudgement gyuen and fynes leuyed, of landes, tenementes, and heredytamentes.

¶ Of mortuaries inacted. An. 21. H. 8.

NO person spyrytuall, theyr fermours nor Bayliffes shall cal any person before any iudge spirytuall for the recouerye of any Mortuaryes, more then is hereafter mencyoned vpon peyne to forfayte for euery tyme so muche in value as they shal take aboue the sum here limytted and ouer that, xl. s. to the party greued, for whiche he shall haue an action of Dette, by wrytte, bill, or informacyon, wherein no wager of law, essoyne, nor protection shalbe alowed. Fyrst no mortuaryes shalbe taken of any which at his death, hath in mouable goodes vnder the value of ten marke. Also no Mortuaryes shalbe taken but onely where Mortuaries haue ben vsed to be payde, and there after the forme hereafter mencyoned. Nor in no mo places but one, that is to wyt, and there where his most abidyng is, and there but one. Nor no person shall take for

for a Mortuarye of any persone beynge at hys deathe at the value of .x. markes aboue his dettes payd & vnder .xxx. li. aboue iii. s. iiii. d. And of the value of .xxx. li. and vnder .xl. not aboue. vi. s. viii. d. And of the value of .xl. or aboue to any summe what so euer it be, not aboue .x. s. Also no Mortuarye shalbe asked nor payde for any woman couert baron, or childe or any persō not kepynge house, or for any wayfarynge man but the Mortuaryes of suche wayefarynge men be answerable in that place where they had their most dwellynge at the tyme of theyr death.

¶ Neuertheles such spiritual person may take any thynge whiche shall be disposed or bequethed to hym or to the hygh aulter of the churche, Also nothynge shall be taken for Mortuarye in Wales nor the marches of the same, nor in Calys or Berwyke or the marches of the same, but onely in suche places of the same where Mortuaryes haue ben accustomed to be payde, and there but onely after the forme aboue specifyed, Prouyded that the Byshops of Banger, Landafe, saynt Dauies and saynt Asse and thatchedeken of Chester may take suche mortuaryes of the preestes within thyer dioceces and iuresdictions, as heretofore haue bene accustomed. Prouyded also, that in suche places where mortuaryes haue bene accustomed to be taken of lesse valuemone shalbe compelled to paye anye other Mortuarye or more for any Mortuarye then hath bene accustomed, nor no Mortuarye there shalbe demaunded of any person exempt by this acte vpon payne afore lymytted.

¶ Of discontynaunce.

It is

Of discontynuance.

IT is called a discontinuaunce by the lawe of Englande, whē he that hathe the possessyon of landes or tenementes for the tyme presente, and yet not hauynge the fee symple in hym selfe nor in his owne ryghte onely, makethe an alienacion of the same to another, by reason wherof, he that shulde haue them after hym and which then hath ryght vnto them can not entre, but it is dryuen to his remedy by way of action, in suche wyse that the said lande be not vtterly shifted and gone from such person or persons as haue right vnto them but be alonely discontinued for a tyme, tyll the person whiche after the death of suche discontinuer hath ryght vnto them, do recontynue and brynge them home agayne not by entry but by sute and way of action, As for example. Yf tenaunte in tayle of certayne landes doth infeffe an other in the same, in fe simple or fee taile, and hath issue and dyeth, his yssue can not entre in to the landes, thoughe he hath tytle and ryght vnto them, but is put to his action, whiche is called a forme done in the discendre. And if suche tenaunt in tayle whiche makethe suche a feoffement, hath no yssue at tyme of his deathe, it is yet neuertheles a discontynaunte to hym which is neyther in the reuersyon or in the remayndre, so that neythir the one nor thother can entre but be dryuen theyr action, be in the reuersyone to his formedone in the reuerter and he in the remayndre to his forme done in the remayndre.

Form done in the discendre.

Formdone in the reuerter or remaindre.

☞ In lyke maner if a bishop doth aliene landes which be percel of his byshoprych, and dieth

this

this is a discontynuance to his successoure forasmuche as he can not entre, but is driuen to his wryt of entre sine assensu capituli.

Enter sine assēsue capituli.

¶ Hemblably, if a Deane be sole seised of landes as in the ryght of his Deanrye and maketh suche an alination, this is a discontynuance to his successour. Also yf the mayster of an hospytall alieneth any landes of his hospitall, this is a discontynuance and his successoures can not entre, but is put to his wryt. De ingressue sine assensu confratrum et sororum.

Ingressu sine assensu confratrum et sororū.

¶ But yf a person or vycare of a churche wyll alien any of his glepe landes to another in fee symple or in fee tayle, and dieth or resigneth his benefyce, this is no discontynuance to his successour, but he may very well entre, notwithstandynge suche alienation made by his predecessor. And the hyghest wryt that a person can haue yf his predecessoure hath aliened his glebe lande or lost it by defaute or reddicions is a Juris virum. ¶ And furthermore note that no tenaunte yf the lande can by his or theyr acte discontynue the ryght of him in the reuersion onles it be by afeffement with liuery and season or els by a reles with warraunte.

Juris virum.

¶ And note that suche thynges as passethe by way of graunt by dede without liuery and season can not be discontynued as auowson, common, or vylayne ingrosse, reuersion, rent charge common for bestes certeine and such other lyke.

¶ Also ye shall vnderstande, that in the .xxxii. yere of kynge Henry the eyght, it was inacted, that no fyne feffement or other acte to be made or suffred by the husband onely, of any landes or tenementes beyng the inheritance or fre holde of

his

his wyfe durynge the couerture betwene them shalbe any discontynaunce therof or be preiudiciall or hurtfull to the sayd wyfe or to her heyres, or to suche as shall haue ryght tytle or interest to the same by the death of suche wyfe, but that the same wyfe and her heyres, and suche other to whom suche ryght shall appertayne after her decesse maye thenne lawfully entre into all suche landes and tenementes according to theyr ryghtes and tytles therin.

¶ Howe recouerye by collusion agaynste tenauntes for terme of lyfe is no discontinuance, enacted. An. xxxii. H. viii.

Here dyuerse persons seased of landes and herydytamentes, as tenauntes by the curtesye of England, or otherwyse onely for terme of lyfe or lyues haue here tofore suffred other persons by agreemēt or couin betwene the had, to recouer the same against them in the kinges court by reason wherof, they to whom the reuersiō or remaynder therof hath belonged, haue after the deathes of such tenātes ben driuen to their actions for the recontynuance and obteyning of the said landes and tenemētes so recouered, and some tyme haue bene clearly disherited of the same, it is enacted that all suche recouerye here after to be had by agreement of the partie or be couyn, agaynste any suche particuler tenaunt of landes or herydytamentes, wherof he is or hereafter shalbe seased, as tenaunt by the curtesye of England, tenaunt in tayle after possibilite of issue extinct

or

or otherwise for terme of life, shal frōhenseforth as against such persons to whom the reuersyon or remayndre shall then appertayne, and agaynst their heyres and successours, be clerely voyde.

¶ Prouyded that this acte extende not to any person that shal by good tytle recouer any hereditamentes without fraude or couin against any such perticuler tenaunt by reason of any former right or tytle, nor yet to auoide any recouery to be had agaynst any suche pertyculer tenaunt by thassent and agrement of those in the reuersyon or remayndre, and so that suche assent and agreement do appere of recorde in the kynges courte.

¶ How wrongful disseisin, is no discent in the lawe, inacted. An.32. H.8. Cap.33.

Where diuerse persons haue by strength and without tytle entred into landes and tenementes, and wrongfully disseised and dispossessed the ryghtful owners and possessours therof, and so bring seased by disseisin, haue therof died seased, by reason of whiche dienge seised, the partyes that were so dysseysed and dispossessed or such other persons as before suche dyscent myght haue lawefully entred into the sayde landes and tenementes be therby clerely excluded of theyr entre into the same and put to their actiō for theyr remedy and recouery therin: it is inacted, that the dyinge seysed hereafter of any suche dysseisour hauynge no ryght or tytle therein, shall not be deuded any suche dyscent in the lawe to take awaye the entre of such persons or theyr heyres, whiche at the tyme of the same dyscent, hadde good tytle of entre into the

same. Excepte that suche disseysour hath had the peasyble possessyon of the landes or tenementes wherof he shall so dye seased by the space of fiue yeres nexte after the dysseasyn by hym commytted without entre or contynuall clayme by such as haue lawfull tytle thereunto.

¶ The lymytacyon of prescription inacted. Anno. xxxii. Henrici. viii.

NO person shal sue or maynteyne any writ of ryghte, or make any tytle or clayme to any landes, tenementes, rentes, annuities commons, pensyons, portions, corrodyes, or other heredytamentes of the possession of his auncestour or predecessour, and declare any further seysyn or possessyon of his auncestour or predecessour but onely of the seysyn, or possessyon of his auncestour or predecessour, whiche hath ben seysed of the same within. xl. yeres nexte before the feast of the same wryt, or next before the saide tytle or clayme, so to be sued.

Limitation of. xl. yeres.

¶ Also none shal sue or meynteyne any assise of Mortancestor, tonisage ayle, writ of entre vpon disseysyn done to any his auncestours or predecessours, or any other action possessary vpon the possession of any his auncestors or predecessors, for landes or hereditamentes of further seisin or possessyon of theym, but onelye his seysyn or possessyon, which was seised therof within. l. yeres next before the feast of the original of ye same writ. And none shall meynteine action of landes or other hereditamentes vppon his owne seysin or possessyon therein, above. xxx. yeres nexte before the feast of the original of the same wrytte.

Limitation of fyftye yeres.

Limitation of. xxx yeres.

¶ Item none shall make any auowry, or conyssaunce for any rent, suyte, or seruyce, and aledge any seysyn of the same in his auowrye or conyssaunce in possession of his auncestours or predecessours, or in his owne possession, or in the possession of any other whose estate he shal clayme to haue, aboue sykty yeres next before the makig of the sayd auowrye, or conyssaunce. Moreouer all formdones in reuerter, formdones in remainder, and Scire facias vpon fynes of landes, or other hereditamentes to be sued, shall be taken within sykty yeres nexte after the title of action fallen. And yf any do sue any of the sayde actions or writtes for landes, or other hereditamentes or make any auowry, conyssaunce, prescription, or clayme for any rent, suyte, seruyce, or other hereditamentes, and can not proue that he or his auncestours or predecessours were in actual possession or seasen therin at any tyme within the yeres before symitted, if the same be trauersed or denyed by the party playntyfe demaundaunt, or auowdant, or by the party tenaunt or defendant, he and his heyres shal from henceforth be vtterly barred for euer of euery the sayd writtes, actions, auowryes, conyssaunce, prescription, tytell, and clayme, hereafter to be sued, or made for the same landes or other the premysses, for whiche suche action, wryt, auowry, conyssaunce, tytle, or clayme hereafter shalbe sued or made. Auowry. Barred.

¶ Prouyded, that all persons whyche nowe haue any of the said action, writtes, auowryes, Scire facias, conisaunce, prescription, tytell, or clayme dependynge, or that hereafter shall sewe or bryng any of the sayde writtes, or actions, or make any of the sayde auowryes, conyssaunces,

prescription, tytles, or claime at any tyme before the feast of the Ascencyon of our Lorde whiche shalbe in the yere of our lorde a thousande fyue hundreth forty and syxe, shall alledge the season of theyr auncestours or predecessours, or theyr owne possessyon and season, and also haue all other lyke auauntage in the same wryttes, actions, auowries, conysaunces, prescriptions, and claymes, as they myght haue had before the making of this statute. Prouided also, that yf any person be nowe within the age of .xxi. yeres, or couert baron, or in pryson, or out of this realme nowe hauynge cause to brynge any of the sayde wryttes or actions, or to make any auowryes, conysaunces, prescriptions, or claymes, it shalbe lawfull to suche person, to sue or brynge any of the said actions, or to make any of the sayde auowryes, conisaunces, tytles, or claymes at any tyme within syxe yeres nexte after suche person nowe being within age, shal accomplishe the age of .xxi. yeres, or nowe beynge couert baron, shalbe sole, or nowe beynge in pryson, shalbe at theyr lyberty, or nowe beynge out of this realme, shall come and be within this realme. And that euery suche persons in theyr sayd actions, auowryes, conisaunces, titles, or claimes to be made sued or commenced within the sayde syxe yeres, shall alledge the season of theyr auncestours or predecessours, or of theyr owne possessyon, or of the possessyon of those whose estate they shall then clayme. And also within the same syxe yeares, shall haue lyke aduauntage in the same, as they myght haue had before the makinge of this acte. Prouyded also, that yf, the sayde persons nowe beynge within age, or couert baron, in pryson or

whē this stat. shall take effecte.

out

out of this realme, do dye within age, or beinge couert, or in pryson, or out of this realme or decease within. vi. yeres nexte after they shal accõplyshe theyr full age, or shalbe at large within this realme, or shal become sole, and no determination or iudgemente had of suche tytle actions or ryghtes so to them acrewed, then the nexte heyre of suche persones shall enioye lyke auantage to sue demaunde aduowe declare or make theyr sayd tytles, claymes or prescriptions within syxe yeres nexte after the dethe of suche persones, as the same infaunte after hys full age, or the sayde woman couerte after the deathe of her husbande, or the same persone beynge oute of this realme after his repayre or commynge in to the same, or the sayde persone imprysoned after his enlargement and commynge out of prisone, myght haue had within. vi. yeres then nexte enseuynge by force of the prouysyon laste before rehersed.

¶ Prouyded also, that yf any persones before the sayde feaste of the Ascencion sue any of the sayde actions or make any auowrye tytle or clayme, and the same happen by the death of any the partyes therunto, to be abated before iudgemente or determynation therof had then the said persons beinge demaundauntes, or auowantes, or makynge any suche conysaunce, prescryption, tytle, or clayme beynge then on lyue, and yf not then theyr nexte heyres, maye commence theyr action and make theyr auowrye conysaunce or clayme vppon the same mater within one yere nexte after suche sute abated, and shall haue lyke aduauntage to sue demaunde auowe declare or make theyr sayde tytle claymes

or prescripcions within the said one yere as the demaundauntes in suche wryt or sute abated, or as such a dyd auowe or make conisaunce, tytle clayme or prescription, myght haue enioyed in the sayde former action or sute.

¶ Prouyded furthermore, that yf any false verdit hereafter be gyuen in any of the sayde actions, sutes, auowryes, prescriptions, tytles, or claymes, then the party greued may haue his attaynt vpon euery such verdit, and the playntyfe in the same attaynt vpon iudgemēt for him gyuen shall haue lyke recouery, execution and other aduauntage as heretofore hath ben vsed.

Attaynt vpō false verdit.

¶ Of fynes.

Fynes haue theyr name, bycause they make a fynall ende and determination of all sutes stryfes and debates betwene men. For the due leuynge wherof. it was inacted in the .iiii. yere of kynge Henry the .vii. that they must be solemly before the iustyces of the cōmon place red and proclaimed the same terme and thre termes nexte folowynge the ingrosement, at whiche tyme all the plees muste cease. And suche fynes shalbe a suffycyent barre and dyscharge agaynst all persons, sauynge women that be couert barō, if such women be not preuie to ẏ same fine, or such as be withī age, in prisō out of the realme, or out of their ryght myndes. But these fines shal nōt cōclud ne bar al straungers which haue right to ētre or to haue action yf they come within. vi yeres after such proclamacions

matiõs made or (in case the cause of actiõ falleth vnto thẽ after the fine so duly leuied) if thei cõe and commence theyr action and sute within .v. yeres next after suche cause of action to them accrued. And they maye sue agaynst the takers of the profytes. But yf they that haue ryght there to be within age, in pryson, couerte baron, out of the realme, or not in theyr right memory, then theyr tytle or entree shalbe saue vnto them tyll they be of full age, out of pryson, dyscouered and sole within the realme or of ryght mynde, and then within fyue yeres after theyr action or entrye muste be sued or made with effecte.

¶ Also by the sayde statute it shalbe a good ple for al straungers to say, that they that were partyes to the fine nor none other to theyr vse, had any thynge in the tenementes or landes at the tyme of the lyuyenge of the fyne.

¶ Furthermore in the .xxxii. yere of kyng H.8. for thaduoydynge of certayne doubtes and ambiguities, it was inacted, that all fynes as well heretofore leuyed, as hereafter to be leuyed, accordynge to the sayde statute of Henry the .vii. by any person of the full age of .xxi. yeres, of any landes or other hereditamentes, beynge before the fine leuyed, in any wise tailed vnto him or to any of his auncestours in possessyon reuersyon remayndre or in vse, shalbe immediatly after the same fine leuied ingrossed and proclamations made, a sufficient barre and discharge for euer, aswel agaynste hym and hys heyres claymynge the same onely by force of any suche entayle as agaynste all other to theyr vse, so that the same fines be not leuyed by any woman after the deth of her husbande, contrary to the sta- Barre.

Anno. xi. Hen. vii. tute made. xi. yeare of Henrye the seuenthe, of landes and tenementes of thinher it ance or purchase of her husband or of any of his auncestors geuen to her in dower, for terme of lyfe, or in tayle in vse or in possession. Excepted also all fynes leuyed or to be leuyed of any suche landes or hereditamentes as the owners therof by any speciall acte of parlyament made syth the sayde fourth yere of henry the. viii. be restrained from

An. iiii. He. viii. makynge any alienations discontynaunce or other alterations of the same. Also of such landes as be nowe in sute and variance in any of the kynges courtes, or wherof any euydentes be nowe in demaunde in the chauncery, or which be all redye recouer. Excepted also fynes leuyed or to be leuyed by any person, of landes or tenementes graunted to hym or to his auncestours in tayle eyther by the Kynges letters patentes or by vertue of any acte of parlyament, wherof the reuersion is in the kynge. And confirmed in the. xxxiiii. yere of Henry the. viii.

¶ Of testamentes or last wylles.

Diuisiō. Wrytten testament Testamēt nuncupatiue.

TEstamentum in latyn is as muche to say as mentis testatio that is a declaraciō or witnessynge of a mans mynde. And there be two sortes of testamentes. The one is called testamentum scriptum, that is a wrytten testamente, or a laste wyll by wrytynge, and the other is called testamentum nuncupatinum a testament nuncupatiue whiche is when a man doth expresse by mouth his last wil and testament without wrytynge, by callyonge before him certeine of his neyghbours in whose

present

presente he dothe signifie by wordes his laste mynde and wyll. And this for most part men vse to do when for fere of sodennes of death, they dare not abyde the wrytynge of their wyll. And this wyll (onelesse it be in certayne cases) is as stronge and as sure, as a testament or laste wyll put in wrytynge and sealed with the seale of the testatour.

¶ Also though a testament by wrytynge be not sealed with the seale of the testatour, yet is the testament good and effectuall in the lawe.

¶ And ye shall also marke, that where a man maketh ones his testamente and wyll, and afterwarde maketh another wyll by wordes yf his laste wyll be proued before the Ordinary and by him put in writing and insealed with his seale, such laste wyll shal auoyde the fyrst wyll, onles it be in special cases, and so alway the latter wyll and testament shall auoyde the former.

¶ Fynally by an acte made the .xxi. yere of Kynge Henry the eyght, it was ordeyned that where parte of the executours named in the testament wherin any landes or tenementes be wylled to be solde by them, refuseth to take vppon them the administration, and residue do take the charge and administration vppon them, in this case all bargaynes and seales in the sayde landes made onely by those executors that take the administration of the testament vpon them, shalde as good and effectuall, as yf all the residue of the executours so refusynge had ioyned in the makynge of the bargayne and sale. Executours.

¶ The difference betwene executours and administratours.

Executours is when a man maketh his testament and last wyll and therin nameth the person whiche shall execute his testamente, then he that is so named is his executour, and such an executour, shall haue an action a-

Assetes in the handes of executours.

gaynst euery dettour of his testatour. And if the executours haue assetes that is to say sufficient in their handes then shal euery one to whom the testatour was in dette haue an action agaynste the executours yf he haue an obligation or especialty to shewe. But in euery case where the testatour myght wage his lawe, there no action lyeth agaynst the executour.

Administratours

¶ Administratour is he, to whom the ordinary committeth the administration and bestowynge of the goodes of a ded man for defaut of an executoure. And action shall lye agaynste hym and for hym as for an executoure, and he shalbe charged to the value of the goodes of the ded and no further, yf it be not by his false plee, or for that he hath wasted the goodes of the deed. But yf

Executours of his owne wronge.

the administratours dye his executours be not administratours, but it behoueth the ordinary to commit a newe administration. Howbeit if a straunger, I meane hym that is neyther executour named in the testamente and laste wyll nor yet administratour appoynted by the ordynary wyll take the goodes of the deed and minister of his owne hed and mynde, without is weful auctoryte, this person shalbe charged and sued as an executour, and not as administratour in an action which is brought agaynst hym by any credytour. But yf the ordynary make a letter

ad

ad colligendū bona de fructi, he that hath suche a letter is not administratour, but the action lyeth in this case agaynste the ordynary, as well as yf he toke the goodes by his owne hande, or by the hande of any other his seruaunte by any other commaundement.

¶ letter ad colligendum.

¶ An acte for probate of testamentes made. An. xxi. H. viii.

NOthynge shalbe taken by any hauinge auctorytie to take probation insinuacion or approbation of any testament where the goodes of the testatour do not amoūt aboue the value of C. s. except to the scribe for wrytyng therof. vi. d. And for the commission of ministration of the goodes of any dyenge intestate not beinge lykewise aboue. C. s. vi. d. Also none hauynge power to take probate of testamentes shal refuse to approue testamentes being lawfully offered vnto them in wrytynge with wax therto affixed redy to be sealed, so that they be lawfully proued before the same ordynary to be true. And whē the goodes of the testatour do amoūt aboue an C. s and not excede. xl. li. none shall take for the probacion regestrynge, sealynge and wrytynge of any suche testamente aboue. iii. s. vi. d. wherof to be to them that haue auctorytie to take probation. ii. s. vi. d. and the other. xii. d. to the scribe for regestrynge.

¶ And where the goodes amoūt aboue. xl. li. that onely. v. s. to be taken, wherof to be to them that haue auctorytie to take the probation ii. s. and. vi. d. and thother. ii. s. vi. d. to the scribe

for

for the regestrynge , or els yf he refuse that .ii. s. vi. d. then he to haue for euery tenne lynes euery lyne contaynynge in lengthe .x. ynches .i. d .

¶ And they that haue auctorytie as is aboue sayde shall approue inlinuate scale and regester the testamentes and deliuer them sealed with the seale of theyr office to the executours for the summe aboue sayde and that with conuenyente spede without any frustratory delaye .

¶ And yf any persone dye intestate or therecutours refuse to proue the testament , that they haupnge auctorytie as is aboue sayd, shal graut thadministration of the goodes to the wydowe of the persone deceased or to the nexte of kynne or to both after theyr discretion , takynge suretie of them for true administration of the goods and dettes , whiche they shalbe so auctoryzed to mynyster . And where one or diuers clayme thadmynistration as nexte of kyn whiche be egall in degre of kynred, or where any one persone desireth the administration as next of kyn wher in dede diuers persones be in equalytie of kynred, then in any suche case the ordynarye shalbe at lybertie to take one or mo makynge requeste. And where diuers require the administration, or were but one or mo of them and not al beinge in lyke degre, make requeste, than the ordynarye shall admit the wydowe and hym or them onely makynge requeste or any of them , takynge notynge for the same where the persone deceased dyed not worth .C. s. And yf he dyed worth .C. s. and not aboue .vi. li. than ,ii. s. vi. d. onely to be taken . And therecutour or admynistratoure callynge to hym the dettors two at the leste or suche persons to whome any legacye was made

Query.

and

and yf they refuse, then two next of kyn to the person deceased, and in their defautes two other honest persons shall by theyr discretyons make a true Inuentorye indented of all the goodes, whiche persons swearynge before the Bysshoppe or his officers to be true, shall delyuer the one parte therof vnto them, and the other kepe with hym selfe. And none hauynge authorytye to take probate of testamentes, vppon payne contayned in this statute, shall refuse to take any such inuentorye presented or tended to them.

Inuentorye of goodes.

¶ Prouyded, yf any person shall dyspose, or wyll by his testamente any landes or heredytamentes to be solde, that the money or profyttes of the same, be accompted for goodes and chatels And they hauynge the authorytye above sayde vpon the delyuery of the seale and sygne of the testatoure shall cause the same to be defaced and incontinent shal deliuer it to the executour without any clayme, and yf any requyre a copy of the testamente, and inuentorye, then they hauynge authorytye or theyr ministres, shall without delay delyuer them a copye, takynge therefore and for the regestrynge of the same as before or elles for euery ten lynes. i. d.

¶ Prouyded, that where they hauynge authorytye as is aboue sayde, haue vsed to take lesse for the probate of testamentes or other thynges conteynynge the same then is here specified, they shall take as they dyd before this acte.

¶ And we yf any that haue authorytye to take probate of testamentes or theyr ministers do attempte agaynst this acte, they shall forfeyte for euery tyme to the partye greued almuthe money as they shal take contrary to this acte. And more

that

that is. the one half to the kyng the other to the party grieued, that wyll sue by action of det bylle information or other wyse in any of the kynges courtes, wherin no essoine protection nor wages of law shalbe alowed. And euery of them shalbe charged for hym selfe and for none other.

Prouyded, that euery one hauynge auctho-rytie aboue said, may call before them euery per-son named executour, to the intent to proue and refuse the testamente, and to bryng in inuento-ries, and to do euery other thynge concernynge the same, as they myght before this acte, so that neither they nor their ministers shall take aboue the fees limyted by this acte.

THowe landes, and tenementes, may be by te-stamente or other wyse bysposed, in-acted. An. xxxii. H. viii.

EVerye person hauynge landes or other he-redytamentes holden in socage, or of the nature, and not hauynge any landes or he-redytamentes holden of the kynge by knyghtes seruyce or Socage tenure in chyefe, or of the na-ture of Socage tenure in chyefe, nor yet of any other person me by knightes seruyce: may gyue, dysspose, and deuyse, as well by testament in wry-tynge, as other wyse by any acte lawefullye exe-cuted in his lyfe, all his sayde landes or heredy-tamentes or any of them.

And euery person hauynge landes or other heredytamentes holden of the kynge in socage, or of the nature of socage tenure in chyefe, and hauynge also any other landes or heredytamen-tes holden of any other person in Socage, or in

the

the nature of socage tenure, and not hauynge any hereditamentes holden of the kyng or of any other by knyghtes seruyce, may from the sayde tyme gyue and deuyse as well by testamente in wrytynge, as otherwyse by any acte lawefullye executed in his lyfe, all and euery of them at his pleasure. Hauynge to the kynge all his ryghte of prymer season and reliefes, and also all other ryghtes and dutyes, for tenures in socage, or of the nature of socage tenure in chyefe, as heretofore hath ben accustomed, the same to be taken and fued out of the kinges handes by the person to whom any such landes shalbe disposed or deuysed in lyke manner as hath ben vsed by any heyre or heyres before the makynge of this statute. And sauing and reseruynge also fynes for alyenacyons of such landes and heredytamentes holden of the kynge in socage, or the nature of Socage tenure in chyefe, whereof shalbe any alteracyon of free holde or inherytaunce made by wyll or otherwyse as is aforesayde.

Prymer season reliefes.

¶ Item all persons hauynge landes or other heredytamentes of estate of inherytaunce holden of the king in chiefe by knightes seruice or of ẏ nature of knyghtes seruice in chyefe, may gyue wyll or assygne two partyes of the same in thre partes to be deuided, or els asmuch therof as shal amount to the yerely value of two partes of the same in thre partes to be deuyded in certeyntye, and by specyall dyuisions as it may be knowen in seueraltie, for the auansement of his wife preferment of his childrẽ, and paimẽt of his dets, or otherwise at his pleasure. Sauing to the kynge aswell the wardeshyp and prymer season of as much as shal amount to the clere yerely valu of

the

the thyrde part therof without diminution, dower, fraude, couyn, charge, or abrygement thereof, as also all fynes for alienacyons of all suche landes holden of hym by knyghtes seruyce in chiefe, wherof shalbe any alteracion of free hold or of inherytaunce made by wyll or otherwyse.

☞ And euery person hauynge landes or tenementes of estate of inherytaunce holden of the kynge in chyefe, by knyghtes seruyce, and other landes holden of hym, or of any other by knightes seruyce or otherwyse, maye gyue or assygne by his testamente or otherwyse as is aforesayde two partes thereof in thre partes to be deuyded or els as much therof as shal extende to the yerely value of two partes, or be deuyded in certein tye, sauynge to the kynge aswell the wardeshyp and prymer season of asmuche, as shall amounte to the yerely value of the thyrde parte, withoute diminution. &c. As also al fynes for alyenations as is aboutsayde.

Fynes for alyenacyons.

¶ Item euery person holdynge landes or tenementes onely of any other, then of the kynge by knyghtes seruice and other landes and tenementes in socage, or of the nature of socage tenure, may gyue dispose or assure by testament or otherwise two partes therof holden by knyghtes seruyce, or asmuch as shall amount to the ful yerely value of two partes And also al the landes and tenementes holden by socage or of the nature of socage tenure at his pleasure. Hauynge to the Lorde of the landes and tenementes holden by knyghtes seruyce for his wardeshyppe asmuche therof as shall amount to the clere yerely value of the thyrde part, without diminution. &c.

¶ And euery person holding onely of the kynge

by

by knyghtes seruyce but not in chyefe, or holdynge of the kynge by knightes seruyce, and not in chiefe, and also other heredytamentes of others by knyghtes seruyce, and holdynge also other heredytamentes of any other persoune in Socage or of the nature of socage tenure, maye gyue and assure by his laste wyll or other wyse two partes of that is holde of the kynge by knightes seruyce and two partes of that is holden of any other perso by knightes seruice, or as muche of eyther of them as shal amount to the full yerely value of two partes and also all hys landes and tenementes so holden in socage or of the nature of Socage tenure. Sauynge as wel to the kynge the wardshyp of as muche as shal extende to the clere yerely value of the thyrde parte of the same so holden of him by knyghtes seruyce without diminut o. &c. As also to the lordes of whom any of the sayde landes bene holden by knyghtes seruyce for wardeshyp as muche of the same as shal amount of the clere yerely value of the thyrde parte in maner aboue declared.

¶ And yf that thyrde parte which in any of the cases aboue sayde shal come to the kynge do not amount to the clere yerely value of the full .iii. part of all the sayde hereditamentes wherof the kynge shalbe intitled to haue the custody or ymmer season: than the kynge maye take into hys handes as muche of thother two partyes of the sayde heredytamentes as with that of the same hereditamentes remaynynge in his handes shall make vp the clere yerely value of the thirde part therof so to be hadde to hym in tytle of wardeshyp and ymmer season. And lyke benefyte to be gyuen to euery Lorde of whom any suche

heredytament shall be holden by knyghtes seruyce concernynge only his thyrde parte for tytle of wardeshyppe.

¶ Also all persons shall sue theyr lyberties for possessions reuersions or remaynders, and also paye relyefes and heriettes lyke as they shulde haue done before the makynge therof. And fynes for alienations shalbe payde in the chauncery vpon wrytes of entre in the post to be obteyned therfore common recouerye to be suffred of any landes holden of the kynge in chiefe, in lyke maner as is vsed vppon alyenations of landes so holden in chiefe by fyne of feoffement.

¶ Prouyded that in such cases where fines for alienatiōs shalbe payde in the chaūcery for wrytes of entre in the post as is aforesayde, none other fine shalbe payde there for any such writes.

¶ Item where .iii. or more persons holde of the kynge by knyghtes seruyce ioyntly to them and to the heyres of one of them, and he that hath the inheritaunce therof dieth, his heyre beynge with in age, the kynge shall haue the warde and maryage of the body of suche heyre the lyke of the freholde or freholders of the landes so holden by knyghtes seruyce notwithstandynge.

¶ Sauynge to all women such ryght and tytle of dower as they ought to haue of any landes or tenementes to be assygned vnto them out of the two partes of the said landes or tenementes seuered from the thyrde parte as is aboue sayd, and not otherwise. And sauing also to the kyng the reuersyons of all suche tenementes in ioynture and dower immediatlye after the deathe of suche tenauntes, yf they shall happen to dye, durynge the none age of the kynges wardes.

¶ Of marryages, inacted. An. 32 H. 8.

It is inacted, that from the fyrſt day of July in the yere of our Lorde a thouſande fyue hundreth and foꝛtye, al marriages within this churche of Englande contracted betwene lawful perſons, as by this acte we declare al perſons to be lawfull that be not prohibited by gods lawe to mary, ſuche marryages beynge contracte and ſolempnyſed in the face of the churche and conſummate with bodely knowlege oꝛ frute of chil dren oꝛ childe beinge had therin betwene the parties ſo maried ſhalbe demed and taken to be lawfull, good and indiſſoluble, notwithſtandynge any precontracte of matrymony not conſummate with bodely knowlege eyther of the perſons ſo maried oꝛ both ſhall haue made with any other before the tyme of contractinge the marriage which is ſolempniſed and conſummate, oꝛ wherof ſuche frute is enſued oꝛ may enſue as afore; and notwithſtandyng any diſpenſacyon, preſcription, lawe oꝛ other thynge graunted oꝛ confyrmed by acte oꝛ other wyſe. And that no reſeruacyon oꝛ prohibition (Goddes lawe excepte) ſhall trouble oꝛ impeche any marryage without leuyticall degrees. And that no perſon ſhal after the ſayde fyrſt daye of July aforſayde, be admytted to any of the ſpyrituall courtes within this the kynges realme, oꝛ any his other landes, and dominions, to any proceſſe, pleas, oꝛ allegacion contrare to this acte.

¶ Finis.

Tabula.

¶ Here it muste be remembred that the nombre in this table folowynge, dothe expresse and shewe the leafe where you shal find your desire, and this letter A. maketh mencyon of the fyrst page or syde, and this letter B. the seconde page or syde.

A.

¶ Abatement of the wrytte folio. xlvi.b.
Accompt. fo.xxxv.b.
Aquitall. fo.xxxviii.b.
Administratour. fo.lxi.a.
Ages of man and woman. folio. xxxv.a.
Ayde praier. fo.xxvii.a.
Annuite, fo.xlviii.a.
Assetes in the handes of executours. fo.xli.b.
Assise. fo.xxii.xxxi.b.l.a.
Atturnement. fo.31.a.xlix.b
Auowry. fo.25.b.53.58.a.

B.

Barre. fo.lviii.lx.a.
Base tenure. fo.vi.a
Bastarde. fo.xii.a.xliiii.b.
Burgage tenure. fo.xliii.a.

C.

Castel warde. fo.xxxvi.b.
Chatell. fol.iii.a.
Chatelles real and personal folio. vi.a.
Copy of court rol. fo.4.b.
Coruage. fo.xxxvii.a.
Conditions. fo.xxvii.b.
Cōditiōs in dede. fo.xxvii.b
Cōditiōs in law. fo.xxix.b.
Conditiōs against the lawe folio. xxix a.
Conditions repugnaunte. folio. xxix.b.
Condycyons impossyble. folio. xxix.b.
Conditions wherof straungers shall take aduauntage. folio. xxix.b.
Customes. fo.xliii.a.

D.

Damage in dower fo.xi.a.
Damages fo.xxv.li.b.
Double damages. fo.l.a.
Det. fo.iiii.xxx.b.li.liii.a.
Det agaynst the ordynarye. folio. xlii.a.
Deuyse by custome of some boroughe. fo.xliii.b.
Deuise. fo.xi.b.xx.b.
Diem clausit extremum. folio. xxix.a.
Discent. fo.xii.xv.a.
Disclaimer. fo.xxxviii.b.
Dispargementes. fo.35.b.
Disseisin. fo.xviii.b.

Disseisin of rēt secke. fo.l.a
Distres. fo.4.b.42.48.51.a
Distres for escuage. fo.34.a
Tenaunt by diuine seruyce folio. xlii.b.
Tenant in dower. fo.6.8.b.
Dower by custome. fo.43.b

E.

Eiection firme. fo.xxvi.b.
Eiectione custodie. fo.26.b.
Encloser. fo.l.b.
Eschete. fo.xii.b.
Escuage. fo.xxxiiii.b.
Escuage certeine. fo.33.a.
Escuage vncerten. fo.34.b.
Estopel. fo.xlviii.b.
Executours. fo.l.b.lxi.a.
Executours of theyr owne wronge fo.lxi.b.
Extinguishemēt. fo.lxix.a.

F.

Fealte. fo.33.b.
Fee symple. fo.xi.a.
Fee tayle. fo.xiiii.a.
Fee onely defyned. fo.22.a.
Fees of offyce. fo.xl.b.
Fynes. fo.lvii.b.
Fynes for alyenacyons. folio. lxiiii.b.
Forfeiture. fo.4.16.a 40.b.
Formedone in the dyscendre folio. lv.b.
Formedone in the reuerter. folio. lv.b.
Formedone in the remaynder. folio.lv.b.
Forme of pledeng. fo.26.b.
Francke almoine. fo. xlii.a.
Francke fee. fo.xlvi.b.
Frāke mariage. fo.14.17.b.
Free holde. fo.iii.a.

G.

Grauntes by corporacyons folio. lii.b.

H.

Hotche potte. fo.xvii.b.
Homage. fo.xxxii.b.
Homage aūcestrel. fo.37.b.

I.

Infranchisments. fo.45.a.
Ingressu sine assensu Capi. folio. lvi.a.
Ingressu sine assēsu confratrum et sororum. fo.56.a.
Inherytaunce. fo.iii.a.
Inuētori of goodes. fo.63.a
Iointenantes, fo.18.22.a.
Ioyntenauntes of personel and reall goodes. fo.xix.a.
Ioyntenauntes of a warde. folio. xxvi.a.
Iuris vtrum. fo.lvi.a.
Iustices of peace. fo.53.b.

K.

Knightes seruice. fo.32.b.

L.

Letter ad colligēdū. fo.62.a
Limitation of prescription,

folio. lvii.b.
Liuery and season. fo.3.30.b
Lyueryes. fo.xxxviii.b.

M.

Manumission. fo.xlv.a.
Marriage. fo.24.66.a.
mortuarie fo. [illegible]

O.

Obligacion. fo.xxix.b.
Ordynary. fo.xl.a.

P.

Partitione facienda. fo.27.a
Perceners. fo.xii.xvi.b.
Petye sergeanty. fo.57.b.
Playnt in assise. fo.xxv.b.
Plees in Dette. fo.iii.b.
Plees in auowry. fo.ii.b.
Prescription. fo.xxiiii.b.
Primer seaso. fo.38.b.64.a.
Probate of Testamentes.
folio. lxiii.a.

R.

Rendisseasin. fo.l.b.
Release. fo.36.42.64.a.
Release. fo.xxiii.b.
Rent reserued. fo.iii.b.
Rente charge graunted by a ioynt tenaunt. fo.xx.b.
Rentes. fo.xlvii.a.
Rent charge. fo.xlviii.a.
Rent secke. fo.xlviii.a.
Rente seruyce can not be apportioned. fo.xlix.a.
Rente is incident to a reuersyon. fo.xlix.b.
Repleuyn. fo.xlviii.a.l.b.
Rescous. fo.xxv.l.a.
Wryt of rescous. fo.31.b.
Resceyte after defaute.
folio. xxiii.a.
Respyte of homage. fo.xl.a.

S.

Scire facias. fo.lviii.a.
Second delyuerance. fo.li.b
Socage tenure. folio.
xli.b.xliii.a.
Sueriye. fo.liii.lxii.b.
Surrendre. fo.v.a.
Surrendre of the olde lesse.
folio. lii.a.
Suruyuour holdeth place.
folio. xviii.b.
Suspence. fo.xxxii.a.

T.

Tenant for yeres. fo.iii.b.
Tenant for lyfe. fo.vi.b.
Tenaunt by the curtesye.
folio. vi.vii.viii.b.
Tenaunt by copye of court roulle. fo.iiii.b.
Tenauntes in common.
folio. xviii.a.xxi.b.
Tenaunt after possibilite of yssue extincte. fo.xv.b.
Tenant at wyll. fo.iiii.b.
Tenauntes and wylles.
folio. xl.b.
Trespas. fo.iiii.v.xxvi.b.

V.

Value of mariage. fo.36.a.
Villaine in grosse. fo.45 b.
Villaine regardant fo.45 b
Vyllenage. fo.xliii.b.
Voucher. fo.xxxviii.b.

W.

Wager of lawe. fo.lxi.b.
Warde fo.xxxiii.b.
Warrantis. fo.xxxviii.a.
Waste. fo.iiii.vii.viii.a.
Watt dispernishable.fo.15.b

FINIS TABVLA.
quod W. S.

Imprynted at London in Fletestrete at the signe of the George next to saynte dunstones churche by Wyllyam Powell. In the yere of our Lorde God. M.D.L.I. The.xix. daye of Marche.